



W.P.Crl.(MD)No.4460 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.08.2026**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.Crl.(MD)No.4460 of 2026

Mohammed Hanifa

... Petitioner

Vs.

1. The Commissioner of Police,
Madurai City, Madurai.

2. The Inspector of Police,
Mattuthavani Police Station,
Madurai.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to forbear the respondents herein from interfering with the petitioner's peaceful running of his eatery shop in the name of Scoopio Falooda at No.05, Fruit market complex, Mattuthavani, Melur Main Road, Madurai during late night hours.

For Petitioner : Mr.K.Bharathi

For Respondents : Mr.D.Rajaboopathy

Government Advocate (Crl.Side)



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ORDER

Prologue:

The present writ petition raises an issue touching upon the delicate balance between an individual's constitutional right to carry on a lawful trade and the obligation of the State to maintain public order and regulate civic life. The petitioner, a hotelier operating an eatery catering predominantly to lorry drivers, load workers, market labourers and interstate travellers during late night and early morning hours, seeks protection from alleged interference by the police authorities who are insisting upon closure of his establishment after 10.30 p.m.

2. The question before this Court is not merely whether a hotel can remain open beyond a particular hour, but whether the police, in the absence of any specific statutory prohibition, can compel closure of a licensed food establishment and thereby restrict the petitioner's right guaranteed under Article 19(1)(g) of the Constitution of India.

Factual background:

3. The petitioner is running a hotel under the name and style of Scoopio Falooda at No.05, Fruit market complex, Mattuthavani, Melur Main Road,



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Madurai. It is his specific case that he possesses a valid licence issued by the Food Safety and Standards Authority of India bearing Registration No. 22426573001324 dated 19.09.2024.

4. According to the petitioner, the Fruit and Vegetable Market situated at Mattuthavani functions extensively during night hours owing to the arrival of lorries transporting fruits and vegetables from various States. Consequently, a large number of labourers, drivers, cleaners, traders and passengers frequent the locality during the night and early morning hours.

5. The petitioner would state that the peak hours of his business fall between midnight and dawn and that the establishment serves food to persons engaged in market~related activities as well as passengers utilizing the nearby bus terminus. The grievance of the petitioner is that the officers attached to the second respondent police station have been repeatedly insisting that he close down the hotel after 10.30 p.m. and have allegedly threatened adverse consequences in the event of non~compliance.

6. The petitioner would contend that there exists no statutory provision empowering the police authorities to prescribe opening and closing timings for



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eateries and restaurants and therefore the action of the respondents amounts to an infringement of his fundamental right to carry on trade and business.

Case of the petitioner:

7. Learned counsel appearing for the petitioner submitted that the petitioner is carrying on a lawful business under a valid licence issued by the competent authority and that the establishment caters to a genuine public need during late night hours. It was further submitted that the right to carry on any lawful occupation, trade or business is protected under Article 19(1)(g) of the Constitution of India and any restriction thereon must be backed by statutory authority and must satisfy the test of reasonableness.

8. Learned counsel would further contend that neither the respondents nor any police authority possesses power under the relevant enactments to orally direct closure of restaurants or eateries at a particular hour. Reliance was placed upon the decisions of this Court wherein it has been consistently held that in the absence of any statutory prohibition, the police cannot compel restaurants and eateries to close merely on the apprehension of possible law and order issues.



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9. Learned counsel also relied upon G.O.(D).No.207, Labour Welfare and Skill Development Department, dated 08.05.2025 and submitted that the policy of the Government itself recognizes operation of eligible establishments on a 24 x 7 basis subject to compliance with applicable laws.

Stand of the respondents:

10. Per contra, the learned Government Advocate submitted that the police authorities have no intention of preventing the petitioner from carrying on a lawful business. It was submitted that the concern of the police authorities arises primarily on account of crowd accumulation during late night hours, obstruction to free movement of vehicles, parking issues, sanitation concerns and the possibility of disturbance to public order.

11. The learned Government Advocate would submit that in certain instances customers are found occupying public streets and road margins for dining purposes, resulting in inconvenience to pedestrians and motorists. It was therefore contended that the police are duty-bound to ensure that public roads are not encroached upon and that law and order is maintained in the locality.



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12. Heard the learned counsel on either side and carefully perused the materials available on record.

Point for consideration:

13. The principal point that arises for consideration is “whether the respondents are entitled to interfere with the petitioner's lawful hotel business by compelling closure after 10.30 p.m., and if not, what regulatory directions are required to balance the petitioner's business rights with public order, traffic regulation and civic concerns?”

Analysis:

14. At the outset, it must be noted that the petitioner is admittedly carrying on a lawful food business under a licence granted by the competent authority. The existence of such licence has not been disputed by the respondents. Article 19(1)(g) of the Constitution guarantees to every citizen the right to practise any profession or to carry on any occupation, trade or business. Though the said right is subject to reasonable restrictions under Article 19(6), such restrictions must have a statutory foundation.



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15. It is a settled principle of constitutional jurisprudence that executive instructions or oral directions cannot curtail a fundamental right unless such action is traceable to a valid statutory source. The respondents have not placed before this Court any statutory provision, notification, rule or lawful order imposing a blanket prohibition against operation of the petitioner's hotel during late night hours.

16. Equally, this Court cannot lose sight of the fact that the State possesses a legitimate interest in ensuring public safety, traffic regulation, sanitation and maintenance of law and order. The right to carry on business does not confer a corresponding right to occupy public roads, footpaths or streets. No commercial activity can be permitted in a manner that causes obstruction to public movement or results in nuisance to the general public.

17. Therefore, while the respondents cannot compel closure of the petitioner's hotel merely on the basis of oral instructions, the petitioner also cannot claim an unrestricted right to conduct ancillary activities upon public streets.



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18. This Court finds considerable force in the submission of the respondents that public roads cannot be converted into dining areas. Any serving of food, placement of tables, congregation of customers or parking arrangements causing obstruction to public roads would undoubtedly justify regulatory action by the competent authorities.

19. The operation of an eatery during late night hours is not per se unlawful. In fact, in areas such as transport hubs, wholesale markets and bus termini, food establishments often cater to a segment of the public whose activities extend beyond conventional business hours. The right to food of consumers and the right to livelihood of the petitioner are equally relevant considerations. A lawful business cannot be stifled merely because it operates during unconventional hours.

20. At the same time, public convenience, sanitation and safety are matters of equal importance. The constitutional guarantee under Article 19(1) (g) carries with it a corresponding obligation to conduct business responsibly and strictly in accordance with licence conditions. Therefore, this Court is of the view that the interests of both sides can be adequately balanced by



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permitting the petitioner to continue his business while ensuring strict compliance with regulatory norms.

21. In view of the foregoing discussion, this Writ Petition is allowed subject to the following conditions:

(i) The respondents shall not interfere with the petitioner's lawful running of the hotel/eatery known as “Scoopio Falooda” merely on the ground that it functions during late night or early morning hours.

(ii) The respondents shall not compel closure of the petitioner's establishment after 10.30 p.m. unless such action is supported by a specific statutory provision, lawful order or competent regulatory direction.

(iii) The petitioner shall strictly comply with all licence conditions, food safety regulations, municipal regulations, fire safety norms and all other applicable statutory requirements.

(iv) The petitioner shall ensure that serving of food is confined strictly within the premises covered by his lawful occupation and licence.

(v) The petitioner shall not place tables, chairs, benches, cooking arrangements, serving counters or any other structures upon public roads, footpaths, road margins or streets.



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(vi) The petitioner shall not permit customers to consume food on public roads, pavements or streets adjoining the establishment.

(vii) The petitioner shall make adequate arrangements for cleanliness, waste disposal and sanitation within and around the premises.

(viii) The petitioner shall ensure that the operation of the establishment does not cause traffic obstruction, public nuisance or disturbance to public order.

(ix) In the event of violation of any licence condition, municipal regulation or statutory provision, it is always open to the competent authorities to initiate action in accordance with law after following due process.

(x) The respondents are at liberty to take appropriate action against any individual causing nuisance, obstruction, unlawful parking, public disorder or violation of law in and around the premises, but such action shall not unnecessarily interfere with the petitioner's lawful business activities.

Epilogue:

22. Constitutional freedoms and regulatory governance are not competing concepts but complementary principles. A lawful entrepreneur is entitled to carry on his trade without arbitrary interference. Equally, public streets belong to the community and cannot be appropriated for private commercial use. The



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balance lies in permitting legitimate business activity while ensuring strict adherence to civic discipline and public convenience.

23. Subject to the above directions, this Writ Petition stands allowed.

07.08.2026

NCC : Yes / No
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L.VICTORIA GOWRI, J.

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TO:-

1. The Commissioner of Police,
Madurai City, Madurai.
2. The Inspector of Police,
Mattuthavani Police Station,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
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Dated
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