

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2015

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THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 11542 of 2015

M. Vinoth Kumar

..Petitioner

Vs.

1. The Director General of Police,
O/o. The Director General of
Police,
Kamarajar Salai,
Chennai - 600 004.
2. The Commissioner of Police,
O/o. The Commissioner of Police,
Chennai City, Chennai - 600 008.
3. The Assistant Commissioner of
Police,
Anti Vice Squad,
Chintadripet, Chennai - 2.
4. The Commissioner,
Revenue Department,
Corporation of Chennai,
Chennai - 3.
5. The Inspector of Police,
V-5, Thirumangalam P.S.,
Chennai - 600 040.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus forbearing the 3rd and 5th respondents, their men and agents, from in any way, interfering with the petitioner's business of Health Club, Fitness Centre and Hair Stylist in the petitioner's spa centre namely, 'Chennai Styule One Beauty Saloon and Spa' at No. 180/1, Kurinji Colony, 4th Avenue, Anna Nagar, Chennai - 600 040.

For Petitioner :: Mr.R. Baskar

For Respondents :: Mr.S. Pattabiram for
R1 to R3 & R5
Mr.P.V. Selvakumar for R4

O R D E R

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner claims to be a Management Graduate and he is running a business of Saloon and Spa in the name and style of "Chennai Style One Beauty Saloon and Spa" at No. 180/1, Kurinji Colony, 4th Avenue, Anna Nagar, Chennai - 40. The petitioner has obtained licence from the Revenue Department of Corporation of Chennai, dated 28.03.2015, vide Licence No. 08-099-000717/2014-2015 and also registered with the Commissioner of Service Tax, Chennai. Aggrieved by the acts of the 3rd and 5th respondents, in routinely interfering with his business, the petitioner submitted a representation dated 15.03.2015 to the 2nd respondent and also, another representation dated 07.04.2015 to respondents 1 to 3 stating, among other things, that he is not running any illegal business or indulging in criminal activities and therefore, interference by police authorities is unwarranted. The grievance of the petitioner is that, though the representations sent by him were acknowledged, interference by respondents 3 and 5 continues and therefore, came forward to file this writ petition.

3. Learned counsel for the petitioner has drawn the attention of this Court to the order dated 09.12.2014 passed in W.P. No. 15866 of 2013 and would submit that this Court, in similar circumstances, has given certain guidelines and in the light of the same, the above said respondents may be restrained from interfering with the lawful business activities of the petitioner.

4. Mr.S. Pattabiram, learned Government Advocate, who accepts notice for respondents 1 to 3 and 5 and Mr.P.V. Selvakumar, learned counsel, who accepts notice for the 4th respondent, would submit that it is the duty of the Police to prevent the commission of cognisable offence and other unlawful activities and therefore, the routine checks made by the Police cannot be construed as interference in the business activities of the petitioner.

5. This Court heard the rival submissions and perused the materials on record. It is relevant to extract paragraph No.67 of the order passed in W.P. No. 15866 of 2013 dated 09.12.2014 (M/s. Masti Health and Beauty Private Limited & Others V. The Commissioner of Police, Chennai City, Chennai & Others reported in CDJ 2015 MHC 060), which reads as follows:

"67. In the light of the above, all the writ petitions are disposed of to the following effect:

(i) The respondents shall not, as a matter of routine and without any basis, conduct any raids and interfere with the business carried on by the petitioners;

(ii) In specific cases where the police have reasonable grounds to believe that an offence punishable under the Immoral Traffic (Prevention) Act has been or is being committed, it is open to the police to take action, after scrupulously following all the steps indicated in Section 15 of the said Act. The steps to be followed are narrated by me in paragraph 28 above; and

(iii) Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, the respondents may take appropriate steps for bringing in either a new legislation or a subordinate legislation in terms of the provisions of the Chennai City Municipal Corporation Act or the Chennai City Police Act, so that public order, decency and morality, which can form the basis for a regulatory law under Article 19(2) of The Constitution, are taken care of. The Government shall file a report on or before 31.03.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending M.Ps are closed."

6. In view of the above order passed by this Court and in the facts and circumstances of the case, this Court is of the view that suffice to direct respondents 2 and 3 to consider the representation of the petitioner dated 07.04.2015, in the light of the above order passed by this Court dated 09.12.2014 in W.P. No. 15866 of 2013 (M/s. Masti Health and Beauty Private Limited & Others V. The Commissioner of Police, Chennai City, Chennai & Others reported in CDJ 2015 MHC 060) and pass orders, as expeditiously as possible, in any event, not later than 3 weeks

from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Director General of Police,
O/o. The Director General of
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Kamarajar Salai,
Chennai - 600 004.
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O/o. The Commissioner of Police,
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3. The Assistant Commissioner of
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4. The Commissioner,
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Chennai - 3.
5. The Inspector of Police,
V-5, Thirumangalam P.S.,
Chennai - 600 040.

1 cc to Mr.R.Baskar ,Advocate, SR.No.22032
1 cc to Government Pleader,Sr.No21782

W.P. No. 11542 of 2015

kv(co)
pmk.22.5.2015