

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.32533 of 2014

Union Mana Magzhi Mandram
Rep., by its Secretary,
Having Office at 2/328
Paparapatti Road,
Kadakathaur,
Dharmapuri - District.

... Petitioner

Vs.

1.The Superintendent of Police,
Dharmapuri District.

2.The Inspector of Police,
Dharmapuri,
Dharmuapuri District.

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of mandamus to forbear the respondents from in any manner interfering or disturbing with the day to day affairs of the petitioner club or its members and their right to avail the facilities for playing rummy, skill games, not involving any element of gambling.

For Petitioner : Mr.A.V.Raja

For Respondents : Mr.R.Vijayakumar AGP

O R D E R

By consent of the learned counsels on either side, the writ petition is taken up for final disposal.

2.Heard Mr.A.V.Raja, learned Counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

3. The writ petition has been filed for issuance of a Writ of Mandamus to forbear the respondents from in any manner interfering or disturbing with the day-to-day affairs of the petitioner club or its members and their right to avail the facilities for playing rummy, skill games, not involving any element of gambling.

3. At the outset the learned Additional Government Pleader appearing for the respondents would fairly submit that in an identical matter, this court has passed an order on 01.12.2011 in W.P.No.27784 of 2011 with certain conditions to the respondents. He submits that similar order could be passed in this writ petition.

4. The submission made on either side are recorded. Accordingly, this writ petition is disposed of with the following conditions.

i. The petitioner and the members of the petitioner Club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867/ Tamil Nadu Gaming Act, 1930;

ii. In the normal circumstances, there should be no interference in the lawful functioning of the Club, by the Police. It is not permissible for the police to enter the Club premises as a routine measure, so long as the Club is functioning within the frame work of law;

iii. If the police authorities have specific information or reasonable doubt that the activities carried on by the Club or its members are not in accordance with law or they indulge in unlawful activities, in violation of the provisions of the Public Gambling Act, 1867/ Tamil Nadu Gaming Act, 1930 or any other enactment, it would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the Club premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;

iv) While exercising the powers conferred on the Police authorities they should follow the mandatory provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/ Public Gambling Act, 1867;

v) It is always open to the Club or its members to challenge the action taken by the Police, if it is not in accordance with law;

vi) In case the police authorities are of the opinion that a situation has arisen to suspend the operation of the Club in exercise of the powers

conferred, they have to issue an order in writing. When there is no authority to the Police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

vii) Before passing orders for the purpose of closure of the Club, in exercise of the Powers conferred on the authorities, they should follow the principles of natural justice. The Club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

5. In the result, the writ petition is disposed of in the above terms. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

pbn
To

1.The Superintendent of Police,
Dharmapuri District.

2.The Inspector of Police,
Dharmapuri,
Dharmuapuri District.

1 cc to Mr. A.V.Raja, Advocate, SR.No.6457

सत्यमेव जयते

W.P. No.32533 of 2014

ad(co)
pmk.19.2.2015

WEB COPY