

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2015

CORAM:

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.28452 of 2015

and M.P.No.1 of 2015

Hazy Heaven Coffee Shop
Rep. by its Partner
Harshit Kumar Bhootra
No.19A, EVR Periyar High Road,
Dr. Radhakrishnan Nagar,
Arumbakkam, Chennai 600 106.

... Petitioner

-Versus-

- 1.The Commissioner of Police,
Greater Chennai Police,
O/o. Commissioner of Police,
Vepery, Chennai 600 007.
- 2.The Inspector of Police,
K-8, Arumbakkam Police Station,
Arumbakkam, Chennai 600 106.
- 3.The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai 600 003.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for the relief of issuance of Writ of Mandamus directing the respondents to permit the petitioner to usage of Hookhas in the petitioner's shop situated at No. 19A E.V.R. High Road Dr. Radhakrishnan Nagar Arumbakkam, Chennai - 106 on the basis of order in Civil Appeal No. 10836/2014 Dt. 08.12.2014 passed by the Honourable Supreme Court of India.

For Petitioner	:	Mr.K.Sannjay
For Respondent (s)	:	Mr.M.S.Ramesh, AGP

ORDER

Seeking for a writ of mandamus directing the respondents to permit the petitioner to usage of Hookhas in the petitioner's shop situated at No. 19A E.V.R. High Road Dr. Radhakrishnan Nagar Arumbakkam Chennai - 106 on the basis of the order dated 08.12.2014 made in Civil Appeal No. 10836/2014 by the Honourable Supreme Court of India, the petitioner has come forward with this writ petition.

2. The case of the petitioner in brief is that the petitioner is running a coffee shop at Arumbakkam in the name and style of "Hazy Heaven Coffee Shop" in the above said address peacefully and successfully. While so, in the year 2011, following the State of Bombay, an order came to be issued by the State Government of Tamil Nadu banning usage of hookhas in all coffee and other shops. The State of Gujarat also issued such a ban order. Consequent upon the ban orders several shop owners like that of the petitioners sustained huge loss in their business. According to the petitioner, in a challenge made to the ban order passed by the State of Mumbai by some of the aggrieved persons by name Narinder S.Chadha and few others before the Hon'ble Supreme Court in Civil Appeal No.10836 of 2014 etc. batch, the Hon'ble Supreme Court by order dated 08.12.2014 allowed the civil appeals, but, while setting aside the ban orders the Hon'ble Supreme Court imposed certain conditions.

3. Now, the grievance of the petitioner is that his representation dated 25.08.2015 made to the 1st respondent seeking permission to usage of hookah in his coffee shop has not been considered despite order of the Hon'ble Supreme Court setting aside the ban order with regard to usage of hookah. Hence, this writ petition for appropriate direction to the respondents.

4. Heard both sides and also perused the records carefully.

5. With regard to usage of hookah in the petitioner's coffee shop, the petitioner had earlier approached this court and this court declined to grant the relief as sought for by the petitioner and ultimately, the same was challenged before the Hon'ble Supreme Court. Now, the petitioner says that the Hon'ble Supreme Court has decided the case in favour of the petitioner and the petitioner's shop is situated 120 yards away from private Educational Institution.

6. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the judgement referred to by the petitioner in Civil Appeal Nos.10836 of 2014 etc., batch is not applicable to the petitioner in view of paragraph 23 of the judgement.

7. Be that as it may without touching the merits of the case, this court directs that the representation of the petitioner be considered by the authorities concerned on its own merits and in

accordance with law within a period of four weeks from the date of receipt of a copy of this order.

8. The writ petition is accordingly disposed of. No costs. Consequently, connected MP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmk
To

- 1.The Commissioner of Police, Greater Chennai Police, O/o. Commissioner of Police, Vepery, Chennai 600 007.
- 2.The Inspector of Police, K-8, Arumbakkam Police Station, Arumbakkam, Chennai 600 106.
- 3.The Commissioner, Corporation of Chennai, Ripon Building, Chennai 600 003.

+1 cc to M/S.K.Sanjay Advocate sr.53860
+1 cc to Government Advocate sr.54088

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