

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.14413 of 2016

M/s.Ryan Spa Unisex Saloon,
rep. by its Proprietor
K.Muthukumaran
405, 468, 4th Floor Kauvery Complex,
Door No.94 and 106, Nungambakkam High Road,
Chennai-600 034. Petitioner

vs.

1.The Commissioner of Police,
Vepery,
Chennai-7.

2.The Inspector of Police,
F.3, Nungambakkam Police Station,
Nungambakkam,
Chennai-34. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus forbearing the respondents from interfering in any manner with the normal functioning of the trade carried on by the petitioner under the name and style of M/s.Ryan Spa Unisex Saloon at Nos.405, 468, 4th Floor, Kauvery Complex, Door Nos.94 and 106, Nungambakkam High Road, Chennai-34.

For Petitioner : Mr.R.Sudhakar

For Respondents : Mr.S.V.Durai Solaimalai,
Addl. Govt. Pleader

ORDER

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

2. The petitioner has come up with the present writ petition for a mandamus, forbearing the respondents from interfering in any manner with the normal functioning of the trade carried on by him under the name and style of M/s.Ryan Spa

Unisex Saloon at Nos.405, 468, 4th Floor, Kauvery Complex, Door Nos.94 and 106, Nungambakkam High Road, Chennai-34.

3. It is the case of the petitioner that he has good knowledge of Ayurvedic medicines and herbal treatment by use of ancient system of treating ailing persons by using effective herbs and oils over fixed period of treatment according to the nature of the ailment. Hence, he opened a beauty parlor under the name and style of Ryan Spa Unisex Saloon. The normal course of treatment involves use of herbal oil, ointments and herbal paste to be smeared over the bodies of the ailing patients. There is no law regulating this kind of business and no license is required from the respondent police or any other authorities and also there is no specific legal provision under the City Police Act. Qualified and trained therapist are working under the SPA and they can very well identify the nerves, blood vessels and without damaging any part of the body, they can apply simple pressure and thereby the nervous system stipulated for free flow of blood. While so, without any rhyme or reason, the respondent police has interfered with his business activities under the guise of conducting raid. In this regard, the petitioner sent a representation dated 31.3.2016 to the first respondent and in spite of receipt of the same, interference continues and hence, the petitioner has come forward with this writ petition for the relief set out earlier.

4. The learned counsel appearing for the petitioner, on instructions, would submit that no illegal or unlawful activities take place while conducting business activities and therefore, the respondent police cannot interfere with the business activities. The learned counsel has also drawn the attention of this Court to the order dated 28.04.2015 made in W.P.No.12817 of 2015, wherein, this Court has taken into consideration the common order dated 9.12.2014 made in W.P.Nos.24629 of 2014 etc. batch (Masti Health and Beauty Private Limited Vs. Commissioner of Police, Chennai reported in 2015 1 MLJ 308) and prays for similar orders.

5. I have heard the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

6. It is relevant to extract paragraph 67 of the order in Masti Health and Beauty Private limited case (cited supra), 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 43 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 31.3.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending MPs are closed."

7. In the light of the said order, the writ petition is disposed of, by directing the respondents to comply with the directions/ conditions imposed in paragraph 67 of the said order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order. No costs.

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Sd/-
Assistant Registrar (CS VII)

//True Copy//

Sub Assistant Registrar

To

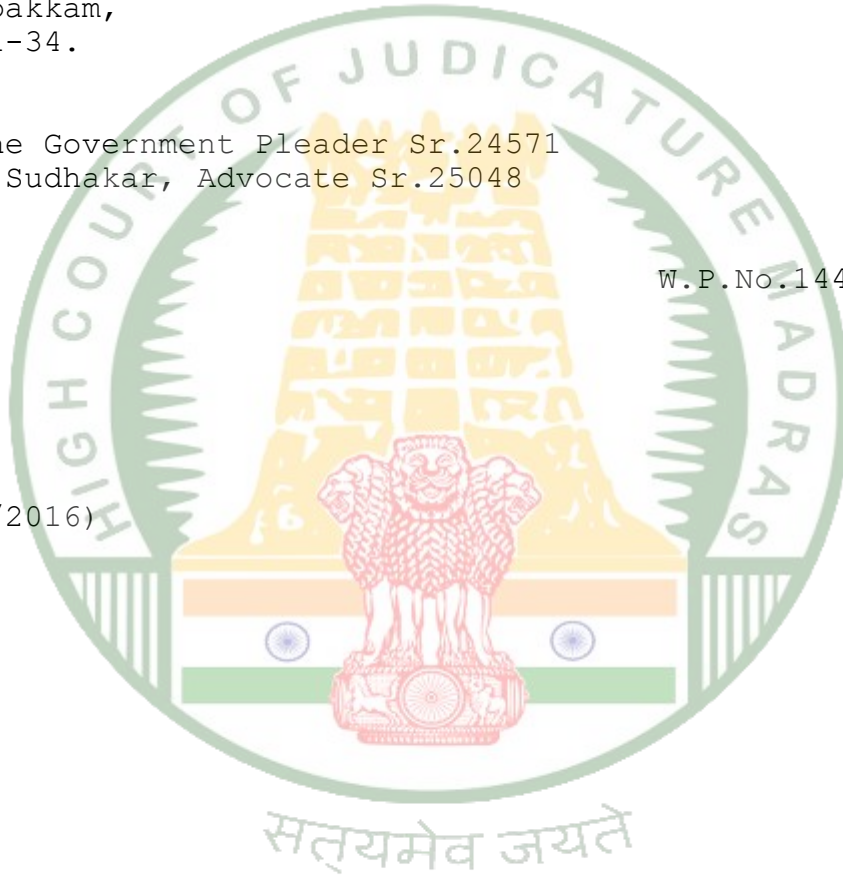
1.The Commissioner of Police,
Vepery,
Chennai-7.

2.The Inspector of Police,
F.3, Nungambakkam Police Station,
Nungambakkam,
Chennai-34.

+1cc to the Government Pleader Sr.24571
+1CC Mr.R.Sudhakar, Advocate Sr.25048

W.P.No.14413 of 2016

ks (CO)
srg (12/05/2016)



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