

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.14719 of 2016
and
WMP.No.12865 of 2016

M.Velayutham

.. Petitioner

Vs.

- 1 The Commissioner of Police
The Greater Chennai
Vepery, Chennai
- 2 The Inspector of Police
Nungambakkam Police Station
Chennai

.. Respondents

Prayer:- Writ Petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus forbearing the respondents or their men agents from interfering with the peaceful conduct of business i.e. cross massage in the name and style of "Atena Unisex Spa" at No.9/5, New Tank Street, Nungambakkam, Chennai-600 034.

Petitioner :Mr.V.Veerapandian

For Respondents :Mr.S.Pattabiraman,
Govt.Advocate

O R D E R

The petitioner has filed this writ petition for a Mandamus, forbearing the respondents from interfering with the peaceful conduct of business, i.e. cross massage in the name and style of "Atena Unisex Spa" at No.9/5, New Tank Street, Nungambakkam, Chennai-600 034.

2. It is the case of the petitioner that he is carrying on business in the name and style of "Atena Unisex Spa" at No.9/5, New Tank Street, Nungambakkam, Chennai-600 034, for the past one year and in his massage parlour he is following the Kerala Traditional Treatment viz., Ayurveda massage, which cures many illness in the body including the nervous disorder. There

is no law regulating this kind of business and no licence is required from the respondent police in terms of the Chennai City Police Act.

3. It is the further case of the petitioner that there are qualified and trained therapists available. While so, some complaints are reached from the respondents, as if some illegal activities are going on in their centre. According to the petitioner, no such illegal activities are taken place in the centre. 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 2.4.2016 and in spite of receipt of the same, interference continues and hence, the petitioner has come forward with this writ petition.

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 second respondent cannot interfere with the business activities. The learned counsel also draw 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 09.12.2014 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. Heard the learned counsel appearing for the petitioner and learned Government Advocate who took notice for 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. Consequently, the connected miscellaneous petition is closed.

ajr

s/d-

Assistant Registrar (CS-VII)

True Copy

Sub-Assistant Registrar

To

1 The Commissioner of Police
The Greater Chennai
Vepery, Chennai

2 The Inspector of Police
Nungambakkam Police Station
Chennai

+ 1 cc to Mr.V.Veerapandian, Advocate SR 24905

+ 1 cc to Govt.Pleader SR 24969

pvs (co)
prk18/5

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