

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19551/2016

and

WMP.No.16906/2016

M.Sony

..Petitioner

Vs.

1.The Commissioner of Police
The Greater Chennai, Vepery
Chennai.

2.The Inspector of Police
TB Chatram Police Station
Kilpauk, Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a 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 "MAC Beauty Salon and Spa" at No.19, Valliammal Street, Kilpauk, Chennai 600 010.

For Petitioner : Mr.V.Veerapandiyan

For Respondents : Mr.R.Govindasamy,
Spl.Govt.Pleader

O R D E R

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

2 The petitioner claims that a Rental Agreement dated 22.04.2016 came to be entered into between Martin Selvam and herself for lease of land and building bearing Door No.19, Valliammal Street, Kilpauk, Chennai-10, admeasuring to an extent of 2000 sq.ft. in the first floor for running a Beauty

Parlor under the name and style of "MAC Beauty Salon and Spa". The petitioner claims that they are giving massage through Kerala traditional treatment of Ayurveda and the persons employed, are qualified and trained Therapists. Since there is no law regulating such a kind of business, the 2nd respondent, under the guise of enquiry or inspection, cannot interfere with the lawful possession. In this regard, the petitioner has submitted a representation dated 02.06.2016 to the 1st respondent, with a copy marked to the 2nd respondent and in spite of it, the harassment continues and hence, the petitioner came forward to file this writ petition.

3 The learned counsel appearing for the petitioner would submit that the business activities are carried on in a lawful manner and no immoral or illegal activities are taking place and in the light of the judgment of this Court reported in 2015 [3] MLJ 308 [Raghavan Vs. Commissioner of Police, The Greater Chennai, Vepery, Chennai], the 2nd respondent cannot interfere with the lawful business of the petitioner and prays for appropriate orders.

4 Per contra, Mr.R.Govindasamy, the learned Special Government Pleader, who accepts notice on behalf of the respondents, on instructions, would submit that the petitioner not even commenced the business and to commence the same, a license is pre-requisite and the representation submitted by the petitioner will be considered in the right earnest and appropriate orders will be passed.

5 This Court carefully considered the rival submissions and also perused the materials placed before it.

6 Section 34 and 35 of the Madras City Police Act, 1888, say that places of public resort to be licensed, so also the Eating Houses, Hotels, Wine Shops etc., to be licensed. But, it does not specify the nature of business, viz., Beauty Salon and Spa Centre. Under section 38 of the said Act the Commissioner may, by orders in writing, authorise any police officer to enter and inspect the licensed places and unlicensed places believed to be used contrary to the Act and in the light of the said provision, it is open to the 2nd respondent to visit the premises if he believes that the business activities are carried on in an unlawful or illegal manner.

7 This Court, in the above cited judgment, in paragraph 6, observed as follows:-

"6.It is relevant to extract paragraph 67 of the order in Masthi Health and Beauty Private

Limited case [cited supra]:-

"[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 31.03.2015, before this Court about the decision taken. No costs. Consequently, all connected pending MPs are closed."

8 In the light of the above cited judgment, the 2nd respondent is directed to dispose of the petitioner representation dated 02.06.2016 within a period of two weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner. It is made clear that the petitioner, under the guise of carrying on the

business activity, shall not indulge in any unlawful or illegal activities, detrimental to law and order or public order or decency.

9 The writ petition is disposed of with the above direction. No costs. Consequently, the connected

miscellaneous petition is closed.

AP

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner of Police
The Greater Chennai, Vepery
Chennai.

2.The Inspector of Police
TB Chatram Police Station
Kilpauk, Chennai.

+ 1 cc to Mr.V.Veerapandiyan, Advocate Sr 31656

+ 1 cc to The Govt.Pleader, Sr 31559

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