

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2016

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

W.P.No.25420 of 2016
and
WMP.No.21743 of 2016

M/s.JAKY Sports Club,
Rep by its President,
Mr.L.Subhash
s/o.Logaiyaa
1A, 1B, First Floor,
Door No.100, General Patters Road,
Anna Salai, Chennai-600 002.Petitioner

Vs.

- 1.The Commissioner of Police,
Vepery, Chennai - 600 003.
- 2.The Deputy Commissioner of Police,
Chintadaripet, Chennai.
- 3.The Assistant Commissioner of Police,
Triplicane, Triplicane High Road,
Chennai.
- 4.The Inspector of Police,
D1, Triplicane Police Station,
Triplicane High Road,
Chennai. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, forbearing the respondents and his subordinates or any other official tracing power under them, from any manner interfering or disturbing with the affairs of the petitioner society and also from harassing its members/guests to avail the facilities for playing indoor games of chess, carom, rummy 13 cards and table tennis, not involving any element of gambling at the premises bearing #1A & 1B, First Floor, bearing Door No.100, General Patters Road, Chennai 600 002.

For Petitioner : Mr.T.Arunkumar

For Respondents : Mr.C. Emalias
Addl. Public Prosecutor

O R D E R

This Writ petitioner has been filed for issuance of a Writ of Mandamus, forbearing the respondents and his subordinates or any other official tracing power under them, from any manner interfering or disturbing with the affairs of the petitioner society and also from harassing its members/guests to avail the facilities for playing indoor games of chess, carom, rummy 13 cards and table tennis, not involving any element of gambling at the premises bearing #1A & 1B, First Floor, bearing Door No.100, General Patters Road, Chennai 600 002.

2. In a similar case, this Court by an order dated 14.06.2016 in W.P.No.15859 of 2016 passed the following order;

3. The learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 13.03.2015 made in W.P.No.5127 of 2015 (Kangayam Friends Club Vs. The Superintendent of Police, Tiruppur District and others) as well as the order dated 17.03.2015 made in W.P.No.6175 of 2014 [M/s.Relax Recreation Club Vs. The Superintendent of Police, Thiruppur District] and in the similar facts and circumstances, this Court has taken note of the earlier order dated 14.03.2012 made in W.P.No.6436 of 2012 disposed of the writ petition with the following conditions and it is relevant to extract hereunder:

"(i)The petitioner association shall not indulge in any other illegal activity other than playing Rummy (13 cards) with or without stakes by its members and guests;

(ii)If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner's association, inspect and take further action as per law;

(iii)The respondent police are advised not to disturb the petitioner association frequently under the guise of inspection as it would disturb the peace and harmony of the petitioner association;

(iv)The petitioner and the members of the

petitioner association are entitled to carry on their 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;

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

(vi) If the police authorities have specific information or reasonable doubt that the activities carried on by the association 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 association premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;

(vii) 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;

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

(ix) In case the Police authorities are of the opinion that a situation has arisen to suspend the operation of the association in exercise of the powers conferred, they have to issue an order in writing. When there is no authority granted to the Police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

(x) Before passing orders for the purpose of closure of the association, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The association should be given an opportunity to submit their objections and

if so desired, a further opportunity of personal hearing should also be given."

3. Following the above order passed by this Court in Writ Petition No.15859 of 2016, this Writ petition is also disposed of on the similar lines.

4. The learned counsel appearing for the petitioner would submit that the petitioner club is not indulging in any illegal or immoral activities affecting the law and order and public order. The said submission, on instruction, is also placed on record.

5. It is needless to state that if the petitioner club indulges in any illegal or immoral activities, it is open to the respondents/police officials to take action in accordance with the law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner of Police,
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- 2.The Deputy Commissioner of Police,
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- 3.The Assistant Commissioner of Police,
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Chennai.
- 4.The Inspector of Police,
D1, Triplicane Police Station,
Triplicane High Road,
Chennai.

5. The Public Prosecutor,
High Court, Madras.

1 cc to M/s.T.Arunkumar, Advocate, sr.41586

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