

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.07.2016
CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25841 of 2016
And
W.M.P.No.22141 of 2016

The Royal Health Spa
A partnership Firm, (Regn.No.488 of 2015)
Rep. by its Partner,
J.Dhanasekar.

... Petitioner

Vs.

1.The State rep. by its
Director General of Police,
Santhome,
Chennai - 600 004.

2.The Commissioner of Police,
Salem District, Salem.

3.The Commissioner of Police,
Coimbatore District, Coimbatore.

4.The Superintendent of Police,
Erode District, Erode.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the respondents, their men, subordinates or any one acting on their behalf from in any manner interfering with nor disturb the petitioner's peaceful and lawful business of The Royal Health Spa except by due process of law.

For Petitioner : Mr.T.S.Rajamohan

For Respondents : Mr.S.Pattabiraman
Government Advocate

O R D E R

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

2.The petitioner claims to be a partnership firm running Unisex Health Spa and Saloon at Plot no.24, Balaji Garden, Ram Nagar, Ayodhyapattinam, Salem - 636 103 and running the said Unisex Spa and Saloon at 30, Venkatachalam Street, R.S.Puram, Coimbatore - 641 002 as well as in the above said address in Salem. The petitioner would further state that the said firm is also registered under the Indian Partnership Act and obtained No Objection Certificate from Coimbatore City Municipal Corporation as well as the Dangerous and Offensive Trade Licence from Salem City Municipal Corporation bearing D & O Reg.No.17/2016/01 dated 08.07.2016. The petitioner would further claim that it is also running a similar business at Erode also.

3.The grievance expressed by the petitioner is under the guise of enquiry/ investigation, the police officials are repeatedly barging into the premises and causing disturbances to the lawful business activities and in this regard, the petitioner has made a representation dated 09.07.2016 to the respondents 1 to 3 and since no orders have been passed, came forward to file this writ petition.

4.Learned counsel appearing for the petitioner has drawn the attention of this Court to the order dated 09.12.2014 made in W.P.Nos.15866 of 2013, 407 of 2014 etc., batch reported in (2015) 1 MLJ 308 (Masti Health and Beauty Private Limited, rep. By its Head of Operations(Chennai) Dr.Binoop Varier and Others Vs. Commissioner of Police, Chennai City, Chennai-8 and Others) and would submit that in the light of the above said judgment, appropriate orders may be passed.

5.This Court heard the submissions of Mr.S.Pattabiraman, learned Government Advocate who accepts notice for the respondents.

6.It is relevant to extract paragraph nos.66 and 67 of the common order dated 09.12.2014 in W.P.Nos.15866 of 2013, 407 of 2014 etc., batch reported in (2015) 1 MLJ 308 (Masti Health and Beauty Private Limited, rep. By its Head of Operations(Chennai) Dr.Binoop Varier and Others Vs. Commissioner of Police, Chennai City, Chennai-8 and Others) which reads as follows:

"66.Therefore, if the respondents wish to regulate the business/ profession of health centres, massage parlours and spas, they must take recourse either to the enactment of a legislation or to the issue of rules/ by-laws in exercise of the power conferred by the respective enactments to make subordinate legislation.

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 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."

7. In the light of the above facts and circumstances, this Court directs the respondents 2 to 4 to consider and dispose of the petitioner's representation dated 09.07.2016 in accordance with law after taking note of the guidelines given in the above said order and pass orders within a period of four weeks from the date of receipt of the copy of this order and communicate the decision taken, to the petitioner. It is also made clear that the petitioner under the guise of carrying on business, shall not indulge in any immoral or illegal activity detrimental to law and order or public interest and in that event, it is open to the respondents to take appropriate action in accordance with law against the violators concerned.

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

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Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Director General of Police,
Santhome, Chennai - 600 004.

2.The Commissioner of Police,
Salem District, Salem.

3.The Commissioner of Police,
Coimbatore District, Coimbatore.

4.The Superintendent of Police,
Erode District, Erode.

+ 1 cc to Mr.T.S.Rajamohan, Advocate Sr 42286

+ 1 cc to The Govt.Pleader, Sr 42132

KR/1/8/16

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