

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.30159 of 2016
and
W.M.P.No.26124 of 2016

M.Eswari

...Petitioner

-Vs-

The Superintendent of Police,
Erode District,
Erode-638 001.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondent, his men and subordinates from interfering with the petitioner's peaceful conduct of business in the name of Sri Vameni Ayurvedic Health and Spa at D.No.123/5, Pusha Nagar, Perundurai Main Road, Thindal, Erode Town, Erode District by considering her representation dated 20.07.2016 in the light of the direction issued in para No.65 of the judgment in S.Rangaraj case (2015(1) CTC 702).

For Petitioner : Mr.N.Manokaran

For Respondents: Mr.S.V.DuraiSolaimalai
Additional Government Pleader

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner claims that she is carrying on a business in the name and style of "Sri Vameni Ayurvedic Health and Spa" at Door No.123/5, Pusha Nagar, Perundurai Main Road, Thindal, Erode Town and she would state that her business is not prohibited by law and that she also underwent training in the said line of business and also engaged experts in the field of Ayurveda, Yoga and Naturopathy and carrying on health care services.

3. Mr.N.Manokaran, learned counsel appearing for the petitioner, on instructions, would submit that only lawful activities are being carried on by the petitioner and while carrying on the said line of business activities, under the guise of enquiry/inspection, the jurisdictional police is repeatedly barging into the premises and causing disturbances and in this regard, has also submitted a representation dated 20.07.2016 to the respondent praying for necessary permission to run the business and since no orders have been passed, the petitioner is constrained to approach this Court by filing this Writ Petition.

4. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the judgment in 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 [(2015) 1 MLJ 308] and would submit that in the light of the guidelines given in the said judgment, there is no impediment on the part of the respondent to consider and dispose of the petitioner's application/representation in accordance with law within a stipulated time frame and prays for appropriate orders.

5. Per contra, Mr.S.V.Duraisolaimalai, learned Additional Government Pleader, who accepts notice on behalf of the respondent would submit that in the light of conducting the said business, illegal or immoral activities are taking place and in the light of the same only, the premises, wherein similar kind of activities are being conducted, is being raided.

6. This Court has carefully considered the rival submissions and also perused the materials before it.

7. It is relevant to extract paragraph No.67 of the judgment in 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 [(2015) 1 MLJ 308] as under:

"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 of 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 said order, this Writ Petition is disposed of and the respondent is directed to consider and dispose of the petitioner's representation dated 20.07.2016 in accordance with law and pass orders within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

The Superintendent of Police,
Erode District,
Erode-638 001.

+1cc to M/S.N.Manokaran, Advocate sr.49252
+1cc to the Government Pleader sr.49298

W.P.No.30159 of 2016

nr[co]
srg 04/10/2016