

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.39129 of 2016
and WMP 33504 of 2016

Associated Brothers' Club,
Reg.No.67/1955,
rep by its General Secretary,
M.Askar Ali,
No.141-B, Purasawalkam High Road,
Kellys, Chennai - 600 010

..... Petitioner

- Vs -

1. The Commissioner of Police,
Commissioner Office Building,
No.132, E.V.K. Sampath Road,
Vepery, Chennai - 600 007
2. The Addl. Commissioner of Police (South),
Law & Order,
Commissioner Office Building,
No.132, E.V.K. Sampath Road,
Vepery, Chennai - 600 007
3. The Joint Commissioner of Police (East)
Commissioner office Building
No.132 EVK Sampath Road, Vepery
Chennai-600 007
4. The Deputy Commissioner of Police,
Kilpauk Range, E.V.R. Periyar Salai,
Chetput, Chennai - 600 031
5. The Assistant Commissioner of Police,
Law & Order,
Ayanavaram Range,
Secretariat Colony,
Nammalvarpet, Chennai-600 012

6. Inspector of Police,
Law & Order,
G-5, Secretariat Colony Police Station,
Secretariat Colony,
Nammalvarpet,
Chennai - 600 012

.. Respondents

Prayer:- Writ petition filed under Section 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents from interfering with the members of the petitioner's club and their guests playing "RUMMY "(13 cards) with or without stakes at the petitioner's members club premises at No.141-B, Purusawalkam High Road, Kellys, Chennai-600 010.

For Petitioner : Mr.S.D. Venkateswaran

For Respondents : Mr.A.N. Thambidurai
Spl.G.P

O R D E R

The writ petition has been filed seeking a Mandamus, forbearing the respondents from interfering with the members of the petitioner's club and their guests playing "RUMMY "(13 cards) with or without stakes at the petitioner's members club premises at No.141-B, Purusawalkam High Road, Kellys, Chennai-600 010.

2. The only ground which has been raised by the learned counsel for the petitioner is that the police authorities under the guise of investigation/enquiry, without any basis, suddenly came raid and make the members to put great hardship. According to the petitioner, they have been running this Club for the past 61 years and has unblemished records. They are following the Rules and Regulations and they should not be disturbed under the guise of investigation.

3. Counter has been filed by the authorities. They have pointed out that Rummy is a gambling and and on 17.09.2016, they found that some of the members were indulging in gaming activity.

4. Heard Both sides.

5. As rightly pointed out by the learned counsel for the petitioner, RUMMY is not gambling activity. As per the judgment of the Hon'ble Supreme Court reported in AIR 1968 SC 825(1) (The

State of Andhra Pradesh vs K.
Satyanarayana) RUMMY is not a gambling activity. However, the learned counsel would point out that the right to conduct a club is a legal right, but at the same time, when there is no violation of law, they should not be unnecessarily harassed.

6. In similar circumstances, this, Court by Order dated 21.10.2016 in WP No.35710 of 2016 passed conditional order. Even from the counter, except the one incident, nothing has been made out. This is the Institution, running for the past 61 years, having unblemished records. Therefore, suffice to state that the right of the police to investigate, verify and find out, only if there is any malpractice is there, but at the same time, there should not be any harassment.

7. In view of the above, the writ petition is disposed of with the following conditions :

(i) The petitioner's club 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 club, inspect and take further action as per law;

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

(iv) The petitioner and the members of the petitioner's club 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 club by the Police. It is not permissible for the police to enter the petitioner's premises as a routine measure,

so long as the club 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 club 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 club 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 club 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 club 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 club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

No costs. Consequently, connected WMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sr

To

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- 3a. The Joint Commissioner of Police (East)
O/o. Commissioner officer Chennai-7
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5. Inspector of Police,
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G-5, Secretariat Colony Police Station,
Secretariat Colony,
Nammalvarpet,
Chennai - 600 012

+1 cc to Mr.Venkateswaran Advocate sr 71062

+1 cc to Government Pleader sr 71256

W.P.No.39129 of 2016

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