

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6040 of 2016
& W.M.P.No.5360 of 2016

Suji Kumar
S/o. Rajayyan,

.. Petitioner

Vs.

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

2. The Inspector of Police,
Korattur Police Station,
Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to forbear the respondents or their men, agents from interfering with the peaceful conduct of business in the name of "Sunshine Unisex Salon and Spa" at No.R-48-G, T.V.S.Colony, Anna Nagar West Extension, Chennai-600 101.

For Petitioner : Mr.V.Veerapandian

For Respondents : Mrs.P.Rajalakshmi, Govt. Advocate

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to forbear the respondents or their men, agents from interfering with the peaceful conduct of business in the name of "Sunshine Unisex Salon and Spa" at No.R-48-G, T.V.S.Colony, Anna Nagar West Extension, Chennai-600 101.

2. It is averred by the petitioner in the affidavit filed in support of the Writ Petition that he is carrying on the above said business for the past one year without any complaint. He further states that there is no law regulating the business nor any licence is required from the respondents-Police or any other authorities and there is also no specific legal provision under the City Police Act, to get licence to conduct a SPA Centre. There are qualified and trained therapists working under the SPA Centre and they can very well identify the nerves and blood

vessels and without damaging any part of the body, they apply simple pressure and thereby, the nervous system is stimulated for free flow of blood, and the blood vessels also get cleared for free flow of blood without any obstruction. By virtue of the above explained Ayurvedic treatment, many customers who underwent treatment from these Centres, got cured. While so, complaints are received from the respondents as if illegal activities are going on in the petitioner's Centre, which is factually wrong, while the fact remains that no such illegal activities are taking place in this Centre. Since the Police is interfering with the business of the petitioner, without any authority of law, the petitioner made a representation, dated 15.01.2016, directly before the respondents about the Police interference. Since no action has been taken on the said representation, the petitioner has filed the Writ Petition for the relief stated above.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

4. When the Writ Petition is taken up for hearing, it is brought to the notice of this Court that in an identical situation, this Court, in W.P.No.37951 of 2015, by order dated 14.12.2015, by imposing certain conditions to either parties, directed the respondents therein not to interfere with the business of the petitioner therein. The copy of the said order dated 14.12.2015 in W.P.No.37951 of 2015 is enclosed in the typed set of papers filed along with the Writ Petition and the relevant portion of the said order reads as follows:

"3. The only grievance of the petitioner is that the respondents are interfering with the lawful activities of the petitioner without authority of law. The reliance has been made on the order passed by this Court in W.P.No.12817 of 2015 in support of the contention made.

4. In the above said order, the following relevant paragraphs are extracted hereunder:

"4. Heard the submissions of Mr.K.Dharmaraj, learned counsel appearing for the petitioner and Mr.M.Digvijaya Pandian, learned Additional Government Pleader accepts notice for the respondents.

5. It is relevant to extract paragraph 67 of the order in Hasti Health and Beauty Private limited case (cited supra) (Masti Health and Beauty Private Limited Vs. Commissioner of Police, Chennai, reported in, 2015 (1) MLJ 308), which reads as follows:

"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 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."

6. In the light of the said order, the Writ Petition is disposed of and the respondents are directed to comply with the directions/conditions imposed in paragraph 67 of the said order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order. The writ petition is disposed of accordingly. Consequently, the connected Miscellaneous Petition is closed. No costs."

5. In view of the same, the writ petition is disposed of accordingly. Consequently, connected Miscellaneous Petition is also closed. No costs."

5. Following the above said order of this Court, this Writ Petition is disposed of with the same observations and directions to both parties, as extracted in the above said order, dated 14.12.2015 in W.P.No.37951 of 2015. W.M.P.No.5360 of 2016 is closed. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner of Police,
The Greater Chennai Police,
Vepery, Chennai.
2. The Inspector of Police,
Korattur Police Station,
Chennai.

+1cc to M/s. V. Veerapandian, Advocate, S.R.No.10659
+1cc to the Government Pleader, S.R.No.11030

RSK(CO)
EU(09/03/2016)

W.P.No.6040 of 2016

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