



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.10.2016

CORAM:

THE HON'BLE MR.JUSTICE K.KALYANASUNDARAM

WEB COPY

W.P(MD) No.19495 of 2016

Bharathi Vel Recreation Club,
represented by its President,
M.Kamalanathan

... Petitioner

-vs-

- 1.The District Collector,
Madurai District, Madurai.
- 2.The Superintendent of Police,
Madurai Rural, Madurai District.
- 3.The Inspector of Police,
Usilampatti Police Station,
Madurai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, forbearing the third respondent herein from interfering with the day today activities of the petitioner's association at Plot No.144, 145, 146, 147, Pothampatti Panchayat, (P.N.S.. Nagar), Peraiyur Road, Near Samathuvapuram, Usilampatti Taluk, Madurai District.

For Petitioner : Mr.P.Thambidurai
For Respondents : Mr.K.P.Krishna Doss,
Govt. Advocate

O R D E R

The writ petition has been filed for issuance of a Writ of Mandamus, forbearing the third respondent herein from interfering with the day today activities of the petitioner's association at Plot No.144, 145, 146, 147, Pothampatti Panchayat, (P.N.S.. Nagar), Peraiyur Road, Near Samathuvapuram, Usilampatti Taluk, Madurai District.

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

3. The learned Government Advocate would submit that the petitioner is the owner of the club and the third respondent police has registered a case against him as well as five other accused in Cr.No.294 of 2016 for violation of the Public Gambling Act.

4. In similar circumstances, this Court has considered the issue and passed an order in W.P.No.30655 of 2016, dated 02.09.2016. The relevant portion of the order is extracted hereunder:-



"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. 7 Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, permits the petitioner to submit one more representation to the respondents 1 to 3 as to the harassment meted out to them and the 2nd respondent, on receipt of the same, is directed to consider the said representation in the light of the above cited order and pass orders within a period of four weeks from the date of receipt of such representation from the petitioner and communicate the decision taken, to the petitioner."

5. This Court is of the opinion that the said order is squarely applicable to the facts of the present case.

6. The writ petition is allowed on the same terms. No costs.

sd/-

Assistant Registrar (Co)

/True copy/

Sub Assistant Registrar

To:

1. The District Collector, Madurai District, Madurai.
2. The Superintendent of Police,
Madurai Rural, Madurai District.
3. The Inspector of Police,
Usilampatti Police Station, Madurai District.

+1cc to M/s. P. Thambi Durai, Advocate SR.No.60048

+1cc to special Government Pleader SR.No.59857

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