

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAISWAMY

W.P.No.5752 of 2017 &

W.M.P.No.6148 of 2017

S.Noorjahan

... Petitioner

v.

- 1.The commissioner of Police,
Greater Chennai,
Vepery,
Chennai - 7.
2. The Inspector of Police,
K-4, Anna Nagar Police Station,
Anna Nagar East,
Chennai - 600 102.

... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, forbearing the respondents, their men and agents, from in any way interfering with the petitioner's business of Saloon and Spa namely " S N STUDIO (UNISEX FAMILY SALOON)" at D.No.J75, Anna Nagar 1st Main Road, Anna Nagar East, Chennai - 102 and pass such orders.

For Petitioner : Mr.S.Doraisamy
For Respondents : Mr.S.Pattabiraman
Govt. Advocate

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus, forbearing the respondents, from in any way interfering with the petitioner's business of Saloon and Spa, namely, " S N STUDIO (UNISEX FAMILY SALOON)" at D.No.J75, Anna Nagar 1st Main Road, Anna Nagar East, Chennai - 102.

2.1 It is the case of the petitioner that he obtained a licence under section 287 of the Chennai City Municipal Corporation Act 1919 from the Chennai Corporation on 28.10.2016 for running a hair cutting saloon at the above mentioned address. Under Schedule VI to the Section 287 of the Chennai City Municipal Corporation Act 1919, a licence is required for keeping a shaving or hair dressing saloon and failure to obtain the licence would result in penal action under Section 287 of the Act.

2.2 Further, the petitioner has stated that for running a Spa, no licence is required, since it is only a place with curative minerals intended for facials, pedicure, bridal, tattoo, hair cutting, hair dressing, spas and massages. Further, the petitioner has stated that she had engaged two male trainees and four female trainees, who had experience in the above field. The petitioner has also stated that it is a Unisex Saloon and Spa and she is doing a lawful business. The petitioner in her affidavit has further stated that the respondent-police used to visit the place of business very often and conduct a search within the business premises. However, no criminal case is registered against the petitioner, since she has not indulged in any illegal activities.

2.3 Since the customers, who are visiting the saloon and spa, were afraid due to the police interference, the peaceful running of the business has been affected and therefore, the petitioner is losing her valuable customers. In these circumstances, the petitioner has filed the above writ petition.

3. The second respondent, the Inspector of Police, K-4, Anna Nagar Police Station, filed his counter, wherein he has stated that upon instructions from the Intelligence Service and the higher police officers they were going for routine inspection to all the Spas in Chennai. Further, he has stated that he also visited the petitioner's Spa and verified the licence from her. Further the second respondent has stated that at the time of inspection he came to know that the petitioner has obtained licence only for hair cutting saloon and not to run the Spa as per section 287 of the Chennai City Municipal Corporation Act 1970.

4. This court, in similar circumstances, following the ratio laid down by this court in the judgment report in **2015(1) MLJ 308 [Masti Health and Beauty Private limited & Others V. The Commissioner of Police, Chennai City]**, disposed of the writ petition in W.P.No.9380 of 2016, by order dated 14.03.2016, by directing the respondents-police to comply with the directions/conditions imposed in paragraph 67 of the order in the judgment reported in **2015(1) MLJ 308 (cited supra)** and further made it clear that the petitioner therein 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.

5. Since the issue involved in the present writ petition is identical to the issue involved in W.P.No.9380 of 2016, it is relevant to extract para 67 of the order passed in **2015(1) MLJ 308 (cited supra)**, 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 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 31.3.2015, 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 by directing the respondents-police to comply with the directions imposed in para 67 of the 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.

With these observations, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

05.04.2017

Rj

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M.DURAISWAMY, J.

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