



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On : 10.10.2017

Orders Pronounced On: 30 .10.2017

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THE HON'BLE MR.JUSTICE M.VENUGOPAL

and

THE HON'BLE MR.JUSTICE ABDUL OUDDHOSE

W.P. (MD) No.16515 of 2017

and

WMP (MD) No.13146 of 2017

K.Mohammed Gouse

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The District Registrar (Administration),
Madurai South,
District Registrar Office,
Madurai.

3.The Commissioner of Police,
Maduria City,
Madurai.

4.The District Manager,
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Madurai District, Madurai.

5.The Secretary,
The Victoria Edward Hall,
32-B, West Veli Street,
Madurai - 625 001.

6.The Secretary,
Madurai United Club,
32, West Veli Street,
Madurai - 625 001.

.. Respondents

PRAYER: Writ Petition is filed Under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus directing the respondents 1 to 4 to take action against the 6th respondent for indulging the liquor shop in the name and style of Madurai United Club situated at Door No. 32, West Veli Street, Madurai and close the 6th respondent club on the basis of the representation of



the petitioner, dated 07.08.2017 within a time frame that may be stipulated by this Honourable Court.

For Petitioner : Mr.R.R.Kannan

For R1 to R3 : Mr.M.Govindan
Special Government Pleader

For R4 : Mr.Satheeshkumar for
Mr.H.Arumugam

For R5 : Mr.M.Rajarajan

For R6 : Mr.V.A.Dhana Aravindh Balaji for
M/s.Dhana Law Associates

O R D E R

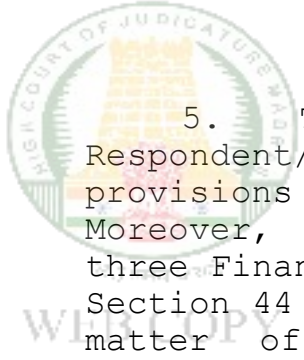
[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has preferred the instant Writ Petition praying for passing of an order by this Court in directing the Respondent Nos.1 to 4 to take action against the 6th Respondent for illegally running the Liquor Shop in the name and style of 'Madurai United Club', situated at Door No.32, West Veli Street, Madurai and close the 6th Respondent/recreation Club on the basis of his representation, dated 07.08.2017.

2.Heard both sides.

3. The stand of the Petitioner is that he is presently functioning as Secretary of "Manitha Neya Makkal Katchi" and fighting for the righteous cause of downtrodden people. According to him, the 6th Respondent is a recreational Society registered under the Societies Registration Act, 1860 on the file of the 2nd Respondent. Further more, the 6th Respondent is a tenant under the 5th Respondent. Originally, the 6th Respondent/ recreation Club started functioning in the demised premises as per Registration No.24 of 1974.

4. The grievance of the Petitioner is that in the recreation Club, gambling, selling of liquor to the members and others and extending loan for usurious interest are conducted as unlawful activities. Furthermore, although the Official Respondents are aware about all the illegalities, they were all silent spectators in respect of the illegalities committed by the 6th Respondent/recreation Club. That apart, within a distance of 50 metres from the recreation Club, two schools viz., U.C.Higher Secondary School and M.C.Higher Secondary School are situated and further that, the inebriated persons, who come out from the 6th Respondent/recreation Club often creates nuisance to the students as well as General public.



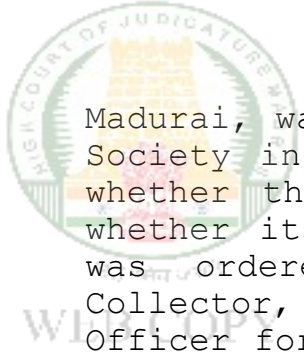
5. The Petitioner takes a plea that the 6th Respondent/recreation Club has not been renewed in terms of the provisions of the Tamil Nadu Societies Registration Act, 1975. Moreover, if the Society is not renewed for a continuous period of three Financial Years, it is deemed to be a 'Defunct Society' as per Section 44 of the Tamil Nadu Societies Registration Act, 1975. As a matter of fact, the 2nd Respondent/the District Registrar (Administration), Madurai South, has not taken any fruitful endeavours in order to declare the 6th Respondent/recreation Club as 'Defunct Society' by invoking the ingredients of Section 44 (3) (b) of the Tamil Nadu Societies Registration Act, 1975.

6. The Petitioner came to understand that in the Year 2013, 41 persons were arrested for gambling in the 6th Respondent/recreation Club. The contention of the Petitioner is that even though the illegal activities are continuously going on in the 6th Respondent/recreation Club, no effective steps were taken in order to close the 6th Respondent/recreation Club. Also that, several families were affected because of the functioning of the 6th Respondent/recreation Club and added further that, it is a great nuisance to the students as well as general public and there are lot of criminal activities in the vicinity of the 6th Respondent/recreation Club.

7. The Petitioner on 07.08.2017 had submitted a representation to the Official Respondents in order to take appropriate action against the 6th Respondent/recreation Club for permanent closure. As a matter of fact, the Petitioner in his representation dated 07.08.2017 addressed to the Respondents 1 to 4 had mentioned that on 22.05.2013, the Police Department of Madurai City had conducted a Search in the 6th Respondent/recreation Club and recovered a sum of Rs.4,15,000/- in cash and also registered F.I.R against 41 persons, who after consuming liquor had indulged in gambling and further they were arrested. In fact, the representation of the Petitioner was received by the Official Respondents on 9.8.2017 itself. However, the Petitioner has not received any communication from them for the reasons best known to them.

8. The plea of the Petitioner is that the 6th Respondent/Club is running without renewal of its registration and the consumption of liquor and gambling are to be permanently banned and for closure of the said Club, the Official Respondents are to act in accordance with law and since the genuine request of the Petitioner for closure of the 6th Respondent/ recreation Club was not considered so far, the present Writ Petition is filed before this Court, seeking necessary relief.

9. It transpires that this court on 01.09.2017 (in the present Writ Petition) had directed the First Respondent/District Collector, Madurai, to inspect the Club in question and submit a Report. Further, it had also stated that the Report should indicate the location of the Club, nearby Educational Institutions and Religious Institutions. Moreover, the First Respondent/District Collector,



Madurai, was directed to verify the membership registered with the Society in question and also, he was directed to ascertain as to whether the Society (6th Respondent) is a 'Defunct' one and as to whether its registration still subsists or not. Besides these, it was ordered by this Court to the first Respondent/District Collector, Madurai to depute the jurisdictional Revenue Divisional Officer for an inspection. But, the Report shall be routed through the First Respondent/District Collector.

10. In obedience to the directions issued by this Court on 01.09.2017, the first Respondent/District Collector, Madurai had filed his Report dated 08.09.2017 before this Court among other things mentioning that the Revenue Divisional Officer, Madurai, was deputed to inspect the Club premises to gather the details in question and to submit his report as per letter, dated 07.09.2017. Apart from that, the District Registrar, Madurai South, was also requested to submit his Report about the details of registration of the Club together with its members.

11. A closer scrutiny of the Report of the first Respondent / District Collector, Madurai District, dated 08.09.2017, indicates that the District Registrar (Administration), Madurai South vide his report dated 8.9.2017 had stated that 'the Madurai United Club has been registered in the year 1974 and registered with the Authority as 24/1974 and as per the records available with the registration Authorities, members of the said Club is 112.'

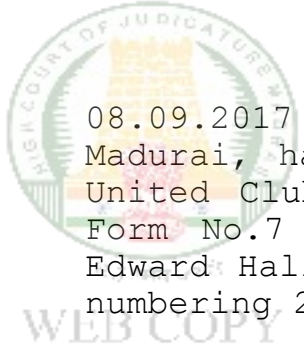
12. It comes to be known that the Revenue Divisional Officer, Madurai, had inspected the Club on 08.09.2017 and submitted his report as under:

"Madurai United Club situates at, one part of the pacca building of Victoria Edward Hall of Old Town Survey No.2/4, New Survey No.4/1, extent in this survey number 69 cent and Old Town Survey No.4/2, New Survey No.2/5, extent in this survey number 1 Acre 20 cent, totally 1 Acre 89 cent at Madurai West Taluk, West Madurai Village as per Village Records.

Madurai United club registration number is 74/1974 and registered under Societies Registration Act, 1860 on 5.03.1974 and recently renewed as on 05.09.2017. At present club 112 (One hundred and twelve) members registered in this club and it is functioning. United Christian Higher Secondary School is one of the educational institution as functioning nearby (within 100 meters) this club and also one mosque. Madura College Higher Secondary School is one of the educational institution situated nearby (within 200 meters) this club and also one Church. In addition that there is no liquor selling within the club."

<https://hcservices.ecourts.gov.in/hcservices/>

13. Moreover, it is seen that the District Registrar (Administration), Madurai South, in his communication dated



08.09.2017 addressed to the first Respondent/District Collector, Madurai, had stated that he had enclosed Form No.6 of the Madurai United Club Registration No.24/1974, Members List of 108 persons, Form No.7 relating to admission of new members(4) (The Victoria Edward Hall, Registration No.16/1907-1908, Form No.6, Members list numbering 2626) and its Form Nos.6 and 7.

14. As seen from Form No.7 of the sixth Respondent/recreation Club, it is lucidly clear that the registration of the Club was made on 21.02.1974 and the registration number is 24/1974 and (1) R.Jeyachandran, (2) S.Palanidurai, (3) N.G.Radhakrishnan, (4) M.Balasubramanian, were admitted as members on 21.05.2017. Indeed, Form No.7 had signed by the Secretary of the sixth Respondent/Club.

15. In this connection it is to be pertinently pointed out by this Court that Section 44 of the Tamil Nadu Societies Registration Act, 1975, speaks about 'Removal of defunct registered societies and also it can be found out by the competent Authority as to whether the Society is periodically renewed by filing necessary Returns.

16. Added further, if a Society has become 'Defunct' owing to non renewal of its registration, it is for the concerned Authority to take recourse for revival strictly in accordance with the Act, as per decision of the Honourable Supreme Court reported in **Nelson vs. Kallayam Pastorate**, AIR 2007 SC page 1337.

17. No wonder, Section 38 of the Tamil Nadu Societies Act, 1975 speaks of 'Cancellation of registration of society carrying on unlawful activities' and the same reads as follows:

"(1).If it appears to the Registrar that any registered society is carrying on any unlawful activity or allows unlawful activity to be carried on within any premises under the control of the society, the Registrar may hold an inquiry into the activities of such society, and in respect of every such enquiry, the Registrar shall have the same powers as are specified in sub sections (6) (7) and (8) of Section 36.

2. If on an enquiry under sub section 1, the Registrar is satisfied that any such society has been carrying on any lawful activity or has allowed any unlawful activity to be carried on within any premises under the control of the society, he shall, after giving reasonable notice to the society to show cause why the registration of the society should not be cancelled and after considering the representations, if any, made on behalf of the society, by order cancel the



registration of the society. The Registrar shall communicate the order of cancellation forthwith to the registered society.

Explanation: For purposes of the section, an activity shall be deemed to be unlawful if such activity is an offence punishable under any provisions of law for the time being in force."

18. Continuing further, Section 39 of the Tamil Nadu Societies Registration Act, 1975 refers to 'Effect of cancellation of registration'.

19. In the upshot of the Petitioner's contentions and also this Court taking into account the Report of the First Respondent/District Collector, dated 08.09.2017, wherein it is mentioned that the Revenue Divisional Officer, Madurai, had inspected the Club on 08.09.2017 and submitted a report inter alia mentioning to the effect that the sixth Respondent/Club was renewed recently on 05.09.2017 and at present, 112 members had registered and the Club is functioning and also there is no liquor selling within the Club, directs the second Respondent to look into the 'Members List' of the sixth Respondent/Club and to find out whether 112 members of the sixth Respondent/Club come under the definition of 'Member' as per the Societies Registration Act, 1860 with special reference to the inspection of documents filed with the Registrar and also to satisfy himself as to whether the sixth Respondent/Club is functioning as on date or otherwise.

20. Further, this Court directs the Respondents 1 to 3 to take necessary action in the manner known to Law and in accordance with Law by carrying out periodical surprise inspection(s) and if they unearth or find out any unlawful activities like consumption of liquor and gambling are taking place in the Sixth Respondent/Club, necessary follow up action may be taken against the concerned, in accordance with Law.

21. With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

1. The District Collector,
<https://hcservices.ecourts.gov.in/hcservices/>
Madurai District,
Madurai.



2.The District Registrar (Administration),
Madurai South,
District Registrar Office,
Madurai.

3.The Commissioner of Police,
Madurai City, Madurai.

4.The District Manager,
Tamil Nadu State Marketing
Corporation Ltd., (TASMAC)
Madurai District, Madurai.

+1cc to M/s.DHANA LAW ASSOCIATES Advocate in SR. No. 84111

+2cc to Mr.R.R.KANNAN Advocate in SR. No. 84098

+1cc to Mr.H.ARUMUGAM Advocate in SR. No. 84466

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No. 84547,82662

PM

JS/KP/SAR.1/10.11.2017/7P-10C

Order made in
W.P. (MD) No.16515 of 2017
and
WMP (MD) No.13146 of 2017
30.10.2017