IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2018

CORAM

THE HON'BLE MR.JUSTICE M.DURAISWAMY

W.P.No.20523 of 2018 and
W.M.P.No.24124 of 2018

Mettur Town Recreation Club
rep by its President,
No.120/26, Meenavar Street,
Kaveri Bridge, Mettur, Salem District. ... Petitioner

Vs.

1.The Superintendent of Police,
Salem, Salem District.

2.The Deputy Superintendent of Police,
Mettur, Salem District.

3.The Inspector of Police,
Mettur Dam Police Station,
Mettur, Salem District.

4.The District Collector,
Salem District, Salem. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Mandamus directing the respondents not to interfere with the day to day affairs of the petitioner's club viz., Mettur Town Recreation Club, No.120/26, Meenavar Street, Kaveri Bridge, Mettur, Salem District more particularly playing the game of runny and also from harassing the members, guests and staff of the Club.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents: Mr.E.Balamurugan,
Special Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the respondents not to interfere with the day to day affairs of the petitioner's club viz., Mettur

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Town Recreation Club, No.120/26, Meenavar Street, Kaveri Bridge, Mettur, Salem District more particularly playing the game of runny and also from harassing the members, guests and staff of the Club.

2.According to the petitioner, the members of the Association are actively taking part in recreation activities and social services. The Association members are jointly involved in various social activities and the members play indoor games like Chess, Carom Board, Table Tennis, Cards particularly Rummy. The members play Rummy only for recreation purpose without any stakes. According to the petitioner Association, the respondent police along with their team are periodically visiting the Association in the evening hours under the guise of enquiry and threatening the members that they would be arrested on charges of gambling and informed them not to carry out any indoor games like playing cards and to close down the Association, if the members continue to play Rummy.

3.In similar circumstances, this court in W.P.No.6436 of 2012 by order dated 14.03.2012 disposed of the Writ Petition filed by Moon Sports Association, imposing the following conditions:

> "...
>
> 7.In the light of the law laid down by the Hon'ble Supreme Court and the order passed by this court on a similar issue in the order dated supra, I am inclined to dispose of this Writ Petition with the following conditions:
>
> 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

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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 provisions 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 to 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."

8. In the result, the Writ Petition is disposed

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of in the above terms. No costs. Consequently, connected miscellaneous petition is closed."

4.The learned counsel appearing for the petitioner as well as learned Special Government Pleader appearing for the respondents submitted that the present Writ Petition may also be disposed of imposing the same conditions.

5.In view of the submissions made by the learned counsel on either side, the Writ Petition is disposed of with the following conditions:

(a) 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;

(b) 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;

(c) 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;

(d) 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;

(e) 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;

(f) 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

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the association premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;

(g) While exercising the powers conferred on the police authorities, they should follow the mandatory provisions as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gambling Act, 1867;

(h) 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;

(i) In case the police authorities are of the opinion that a situation has arisen to suspend the operation of the association to 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

(j) 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."

No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Salem, Salem District.

2.The Deputy Superintendent of Police,
Mettur, Salem District.

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3.The Inspector of Police,
Mettur Dam Police Station,
Mettur, Salem District.

4.The District Collector,
Salem District, Salem.

+1cc to Mr.R.Thamarai Selvan, Advocate SR.No.55090
+1cc to Government Pleader SR.No.55326

W.P.No.20523 of 2018 and
W.M.P.No.24124 of 2018

GN(21/08/2018)

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