

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.02.2018
CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.2137 of 2018

M/S.Studio M Hair Design & Day Spa,
Proprietor by T.P.Manoj Kumar,
S/o.T.P.Gangadaran, Poly house, 1st Floor,
25/51, 1st Main Road,
Gandhi nagar, Adyar,
Chennai 600 020.

... Petitioner

Versus

1.The State of Tamil Nadu,
Rep.by its Secretary,
Home Secretary,
Fort St.George,
Chennai-600 009.

2.The Commissioner of Police,
Chennai City, Egmore,
Chennai-600 008.

3.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus forbearing the respondents 1 and 2, their men and agents from in any way interfering with the petitioner's business of Health Club, Fitness Center and Hair Stylist in the petitioner's Spa Centre, namely M/s.Studio M Hair Design & Day Spa, No.25/51, 1st Main Road, Gandhi Nagar, Adyar, Chennai 600 020.

For Petitioner : Mr.S.Dhanalakshmi

For Respondents : Mr.D.Suriyanarayanan

Additional Government Pleader for R1 & R2

ORDER

Mr.D.Suriya Narayanan, learned Additional Government Pleader takes notice for respondents. By consent, the main writ petition is taken up for final disposal.

2.The petitioner seeks for a direction to the respondents 1 and 2 and not to interfere with the petitioner's business of health club, fitness center and hair stylist of the petitioner's spa centre vis., M/s.Studio M Hair Design & Dry Spa, No.25/51, 1st Main Road, Gandhi Nagar, Adyar, Chennai 600 020.

3.The grievance of the petitioner before this Court is that when the petitioner's business of health club and fitness centre is being run strictly in accordance with law, without giving any room for any complaint whatsoever, the respondents are trying to interfere with the petitioner's business, without having any valid reasons.

4.Learned Additional Government Pleader appearing for the respondents, based on instructions submitted that there is no case filed against the petitioner so far and they are not interfering with the business of the petitioner also. The said statement is recorded.

5.Learned counsel for the petitioner invited this Court's attention to an order passed by this Court in a batch of cases in W.P.No.24629 of 2014, etc., dated 09.12.2014 in support of his submission, wherein the learned Judge has passed a detailed order, by issuing a direction to the respondents therein, not to raid as a matter of routine and without any basis and interfere with the business carried on by the petitioners therein, who are similarly situated persons. The learned Judge has also directed the police that when they have reasonable grounds to believe that 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 under section 15 of the Immoral Traffic (Prevention) Act 1956. The learned Judge has also referred to as to what are the steps to be taken, while taking action under section 15 of the said Act at paragraph No.28, which reads as follows:

"28.A careful look at the provisions of Section 15 would show that a Special Police Officer or a Trafficking Police Officer can enter upon any premises and cause a search without warrant, only after satisfying the following:

- (i) he should have reasonable grounds for believing that an offence punishable under this Act has been or is being committed;
- (ii) he must believe that such an offence is committed in respect of a person living in the premises;
- (iii) he should believe that the search of the premises with warrant cannot be made without undue delay; and
- (iv) he must record the grounds of his belief before entering the premises."

6.Considering the above stated facts and circumstances, this writ petition is disposed of as follows:

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 petitioner;

ii) In specific cases where the police have reasonable grounds to believe that an offence punishable under Immoral Traffic (Prevention) Act has been or is being committed, it is open to the police to take action scrupulously following all the steps indicated under Section 15 of the said Act.

No costs.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1.The State of Tamil Nadu,
Rep.by its Secretary,
Home Secretary,
Fort St.George,
Chennai-600 009.
- 2.The Commissioner of Police,
Chennai City, Egmore,
Chennai-600 008.
- 3.The Commissioner,
Corporation of Chennai,
Rippon Building,
Chennai-600 003.

+1cc to Mr.S.Dhanalakshmi, Advocate, S.R.No.7579

+1cc to the Government Pleader, S.R.No.7998

RRK(13/02/2018)

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