

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.11104 of 2018

and

W.M.P.No.13001 of 2018

M.Manikandan

.. Petitioner

Vs

1.The Superintendent of Police,
Taluk Office Road,
Erode, Erode District.

2.The Inspector of Police,
Veerappan Chathiram Police Station,
Erode, Erode District.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, forbearing the respondents or their men, agents from interfering with the peaceful conduct of business i.e., cross massage in the name and style of "New Ayurvedic Panchakarma & Health Care" Door No.61/4, (Opp) Reliance Mall, Erode, Perundurai Road, Erode District.

For Petitioner : Mr.S.Leonard Vasanth

For Respondents : Mr.V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

The prayer made in this writ petition is to forbear the respondents from interfering with the peaceful conduct of the business by the petitioner.

2. According to the petitioner, he is conducting Ayurvedic Centre, including Massage Therapy under the name and style of "New Ayurvedic Panchakarma & Health Care" in accordance with law. While so, the Police officials are frequently visiting his business place under the guise of inspection and interfering with his business activities, thereby, causing hardship to his customers. Hence, the petitioner made a representation dated 07.04.2018 to the first respondent, a copy of which was sent to

the second respondent and the said representation is pending, without any consideration. Therefore, he is before this Court.

3. The learned counsel for the petitioner submitted that this Court, in similar circumstances, following the ratio laid down by this Court in Masti Health and Beauty Private limited & Others V. The Commissioner of Police, Chennai City [2015(1) MLJ 308], by order dated 14.03.2016, disposed of the writ petition in W.P.No.9380 of 2016, directing the respondents therein to comply with the directions/conditions imposed in paragraph 67 of the order in Masti Health and Beauty Private limited (supra) and also directing the petitioner not to indulge in any unlawful or illegal activities detrimental to law and order or public order, under the guise of carrying on business activity. For better appreciation, para 67 of the said order is reproduced hereunder:

"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) 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."

Therefore, the learned counsel sought a similar order in this writ petition as well.

4. The learned Special Government Pleader appearing for the respondents submitted that the petitioner is running massage centre, without any licence/registration certificate and skilled therapist. He further submitted that based on the complaint

received, the respondent police have conducted enquiry and hence, they have no intention to interfere with the business of the petitioner.

5. Heard both sides and perused the records.

6. In this writ petition, the petitioner has sought appropriate direction to the respondents, alleging that the respondent - police are frequently interfering with the spa/massage business of the petitioner, under the guise of enquiry, whereas, the stand taken by the respondent police is that they are just carrying out their statutory obligation to ensure that no premises is used for any unlawful activity and their intention is not to close down these business entities, but, only to ensure that the petitioner does not carry on any activity, which is prohibited by law, within his four walls.

7. On a perusal of the documents produced before this Court, it is evident that the petitioner has not obtained any licence/registration certificate for running his business, but, has merely addressed a representation to the respondents, requesting that his business activities should not be interfered with, except by due process of law.

8. In such circumstances, this Court is of the view that the ends of justice would be met by directing the respondents to consider and pass appropriate orders on the petitioner's representation dated 07.04.2018 in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

9. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ms/rk

To

1. The Superintendent of Police,
Taluk Office Road,
Erode, Erode District.

2.The Inspector of Police,
Veerappan Chathiram Police Station,
Erode, Erode District.

+lcc to Mr.S.Leonard Vasanth, Advocate, S.R.No. 61049
+lcc to the Government Pleader, S.R.No. 61289

W.P.No.11104 of 2018

GP(CO)
GN(21/01/2019)



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