

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2018

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

W.P.No.34187 of 2017

and

WMP.No.38287 of 2017

The Madras Aryan Club (Regn.No.1930),
rep. by its Secretary K.Palani,
S/O.Kuppusamy,
No.44, Ramanuja Street,
Old Washermanpet,
Chennai-600 021.

... Petitioner

Vs.

1. The Commissioner of Police,
Greater Chennai,
Vepey,
Chennai-600 007.

2. The Inspector of Police,
Law and Order,
H-3, Tondiarpet Police Station,
Chennai.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, directing the respondents to issue Public Entertainment Resort Licence to the petitioner club by considering the representation dated 20.11.2017.

For Petitioner : Mr.G.Mohanakrishnan

For Respondents : Mr.S.Babu
Government Advocate

ORDER

The prayer sought for in this Writ Petition is for a Writ of Mandamus, directing the respondents to issue Public Entertainment Resort Licence to the petitioner Club by considering the representation dated 20.11.2017.

2.Heard Mr.G.Mohanakrishnan, learned counsel appearing for the petitioner and Mr.S.Babu, learned Government Advocate appearing for the respondent.

3.With the consent of the learned counsel appearing for both sides, this Writ Petition is taken up for disposal at the admission stage.

4.Mr.G.Mohanakrishnan, learned counsel appearing for the petitioner would submit that, the petitioner Club is a licensed Club and the same was registered in the year 1898 and functioning for the past 125 years. The Club entertaining lawful activities for the benefit of the members and according to him, no unlawful or illegal activities are taken place. While so, the licence of the petitioner Club since has not been renewed, the petitioner had submitted an application on 20.11.2017 to the respondents, wherein they have not taken any action and on the pretext that the licence having not been renewed, it is the allegation of the petitioner Club that, the respondent police is very often interfering with the lawful activities of the petitioner Club and therefore, the petitioner Club, having no other option, is constrained to approach this Court with the aforesaid prayer.

5.Per contra, Mr.S.Babu, learned Government Advocate appearing for the respondent would submit that the application submitted by the petitioner for renewal of licence is under consideration. But, it is an admitted fact that as of now, the licence has not been renewed. The learned Government Advocate would also submit that, in earlier occasion, the petitioner had filed a Writ Petition in W.P.No.2104 of 2016, wherein by order dated 11.03.2016, this Court has passed the following orders:

"6.The above judgment is squarely applicable to the present facts of the case also. Hence, by following the above said judgment, this Court is the opinion that by imposing the following conditions, the present writ petition could be disposed of. Accordingly, the following order is passed

(1)The petitioner-Club shall not indulge in any activity by allowing its members or the guests to play rummy (13 cards) with stakes and make profit or gain.

(2)The Police are entitled to take action in the event any illegal activity is carried on in the association premises.

(3)In respect of the FIR registered by the Police against those persons, who were said to have indulged in illegal gambling activity in the petitioner-club, it is open to the Police to proceed

further as per law and it is for the petitioner-club, its members and their guests to defend the same in the manner known to law, as the criminal action was initiated after a valid raid conducted by the Police.

(4)The Police shall not disturb the petitioner-club frequently under the guise of inspection without there being any reliable information as to the illegal activities of the club or its members or the guests.

With the above terms, the writ petition is disposed of."

6.By relying upon the said order, the learned Government Advocate would submit that, in violation of the said conditions, especially, Condition No.1 at Para 6 of the said order, as referred to above, the members of the petitioner Club engaged in playing rummy with stakes and make profit or gain, hence, the respondent Police on 16.11.2017, on information, had suddenly checked up, and with result, the respondent Police have seized the materials used for playing rummy and a case has been registered in Crime No.1809 of 2017 on the file of H-3, Thondiarpet Police Station for the alleged offences under Sections 45 and 46 of the City Police Act. The learned Government Advocate appearing for the respondent would also submit that after investigation, charge sheet has been filed before the concerned Magistrate Court and the trial is pending.

7.However, the learned counsel appearing for the petitioner emphatically denied the involvement of any activity on the part of the members of the petitioner Club and according to him, this case is a false case and the petitioner Club is taking steps to face the trial. Be that as it may, the fact remains that the licence of the petitioner Club has not been so far renewed.

8.It is the claim of the learned counsel appearing for the petitioner that, though an application was filed as early as on 16.11.2015 seeking renewal of the licence, the same was not considered and the same was kept pending for a long time. Therefore, the petitioner was constrained to file an another application on 20.11.2017. In spite of the abovesaid two applications made, the respondent Police has not taken any steps to issue the renewal of licence so far and by thus, keeping the petitioner Club as an unlicensed one.

9.I have considered the submissions made by the learned counsel appearing for the petitioner as well as the respondent.

10. Whether the petitioner Club is entitled to get the renewal of licence or not, need not be gone into at this stage. The petitioner Club, as claimed by them, is one of the oldest Club, functioning for the past 125 years and therefore, with regard to their renewal of licence, if any petition is filed before the Licensing Authorities, it is the duty of them to consider and pass orders. It is to be noted that, without deciding the applications given by the petitioner Club, the same has been kept pending for years together. It is also the case of the petitioner that they are not involved in any illegal activities. However, the respondent asserted that because of the involvement in unlawful act, especially, in violation of the order of this Court in the earlier Writ Petition as referred above, action has been taken and a charge sheet has been filed against the petitioner Club, as stated supra.

11. At any rate, the application for renewal of licence is pending before the Licensing Authorities and it is for them to take a decision at the earliest point of time and without passing any orders keeping it pending for a long time caused such kind of confusion. Therefore, in order to give a quietus to the issue, the following orders are passed in this Writ Petition.

(1) The respondents are directed to consider the application dated 16.11.2015 and further application dated 20.11.2017 for renewal of Public Entertainment Resort Licence to the petitioner Club and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order.

(2) Till such order is passed, any unlawful activities if undertaken by the petitioner Club, the same shall be interfered with by the respondent police.

(3) However, if any illegal or unlawful act including the act of playing rummy for the purpose of making profit or benefit, the respondent police is at liberty to take action.

(4) It is made clear that under the guise of taking action against the alleged illegal act of the petitioner Club, unnecessarily, no harassment shall be made by the respondent Police with regard to the day-to-day affairs and lawful activities being undertaken by the members of the petitioner Club.

With these directions, this Writ Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mps
To

1. The Commissioner of Police,
Greater Chennai,
Vepery,
Chennai-600 007.
2. The Inspector of Police,
Law and Order,
H-3, Tondiarpet Police Station,
Chennai.

+1cc to Mr.G.Mohanakrishnan , Advocate, S.R.No.849
+1cc to the Government Pleader, S.R.No.1623

W.P.No.34187 of 2017
and WMP.No.38287 of 2017

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