

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018
CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

WP. No.18123 of 2018
and
WMP.No.21410 of 2018

Thukanayakanpalaiyam Manamagil Madram
Rep. by its Secretary K.Nawab
No.3, Pallathu Maedu
Behind Girls High School
Thukanaikanpalayam,
Gobi Vattam, Erode District. ..Petitioner
Vs

- 1.The District Superintendent of Police
Erode District
Gandhiji Road, Marapalam
Erode.
- 2.The Deputy Superintendent of Police
Sathyamangalam
Erode District.
- 3.The Inspector of Police
Bangalowpudhur Police Station
Erode District.

..Respondents

Writ Petition has been filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents from unlawfully interfering with the rights of the members of the petitioner society in the premises at No.3, Pallathu Maedu, Thukanayakanpalaiyam Village, Gobichettipalayam Taluk, Erode District.

For Petitioner : Mr.M.Roshan Atiq
For Respondents : Mr.D.Raja
Additional Government Pleader

O R D E R

This writ petition has been filed seeking a Writ of Mandamus, forbearing the respondents from unlawfully interfering with the rights of the members of the petitioner-Society in the premises at No.3, Pallathu Maedu, Thukanayakanpalaiyam Village, Gobichettipalayam Taluk, Erode District.

2. Today, Mr.R.Vasu, HC 1715, Bangalowpudhur Police Station, Erode District, is present before this Court.

3. It is the case of the petitioner-Society that they are registered under the Tamil Nadu Societies Registration Act, 1975 and there are 33 members, most of whom are retired Government servants and that they have started the Society for playing indoor and outdoor games for their members; that the respondent police under the guise of enquiry, are interfering with the lawful activities of the petitioner-Society and are harassing them. Hence, the petitioner has filed the present writ petition with the above prayer.

4. Heard the learned counsel for the petitioner-Society and the learned Additional Government Pleader for the respondents.

5. On instructions, the learned Additional Government Pleader submitted that the petitioner-Society were carrying out illegal activities in the club premises like playing cards for money.

6. The above said contention was strongly refuted by the learned counsel for the petitioner-Society and submitted that the members were playing rummy, which is a game of skill and not a game of chance.

7. This Court gave its anxious consideration to the rival submissions.

8. It is a trite law that the power of the police to enter into the game house if illegal activities are going on therein cannot be restricted. However, a learned Single Judge of this Court has passed the order dated 27.04.2009 in WP.(MD) No.2677 of 2009, in which, the following directions have been issued:

- (i) The petitioner and the members of the club are entitled to carry on 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;
- (ii) In normal circumstances, there should be no interference in the lawful functioning of the clubs by the police. It is not permissible for the police to enter the club premises as a routine measure, so long as the clubs are functioning within the frame work of law;
- (iii) If the police authorities have specific information or reasonable doubt that the

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

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

(v) It is always open to the club or its members to challenge the action taken by the police, if it was not in accordance with law;

(vi) In case the police authorities were of the opinion that a situation has arisen to suspend the operation of the club in 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

(vii) Before passing orders for the purpose of closure of the club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.

9. The respondent police is directed to follow the aforesaid directions in the case of the petitioner-Society.

With the above direction, this petition is ordered, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

1.The District Superintendent of Police
Erode District
Gandhiji Road, Marapalam
Erode.

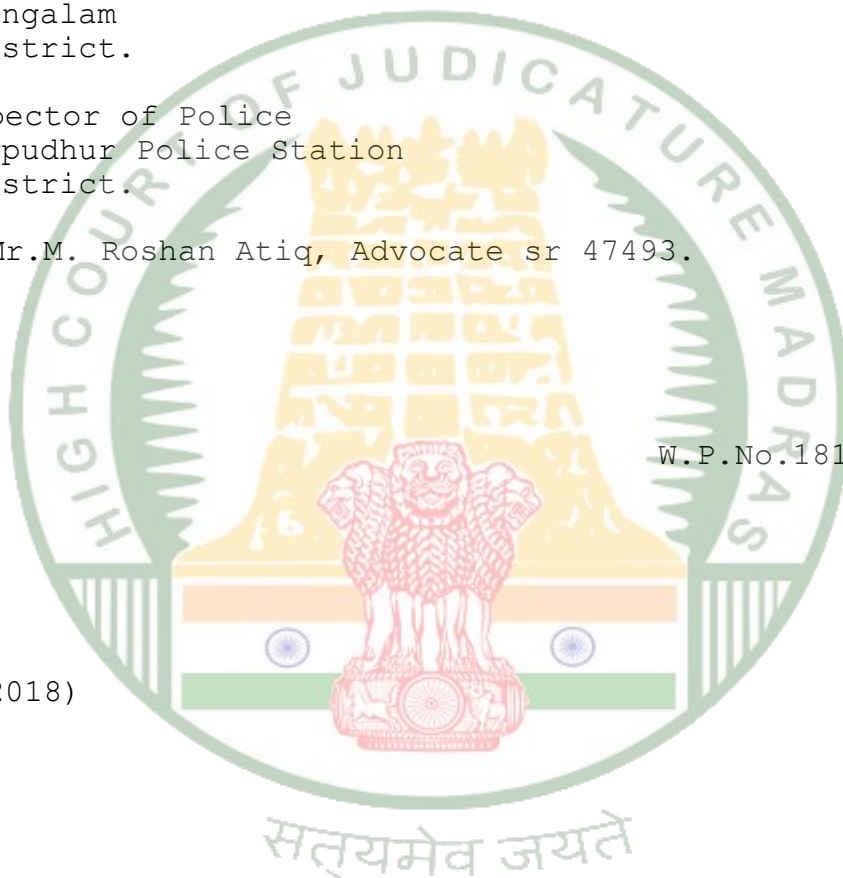
2.The Deputy Superintendent of Police
Sathyamangalam
Erode District.

3.The Inspector of Police
Bangalowpudhur Police Station
Erode District.

+1 CC to Mr.M. Roshan Atiq, Advocate sr 47493.

W.P.No.18123 of 2018

SP(24/07/2018)



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