

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2018

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.No.26550 of 2013

and

M.P.No.1 of 2013

Ilampillai Vivekanandar Nala Sangam,
Regn.No.114/2013,
Rep.by its President,
M.Perumal.

...Petitioner

Versus

- 1.The Superintendent of Police,
Salem Rural,
Nethimedu, Salem -2.
- 2.The Deputy Superintendent of Police,
Sankagiri,
Salem District.
- 3.The Inspector of Police,
Magudanchavadi Police Station,
Magudanchavadi,
Salem District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus, forbearing the respondents herein from preventing the members of the petitioner's Sangam playing the game of Rummy along with Carom Board, Table Tennis, Chess at No.4/54, Ramapuram, Thundukadu, Perumagoundampatti Village, Ilampillai, Salem Taluk & District unless due process of law.

For Petitioner

: Mr.C.Prakasam

For Respondents

: Mr.V.Shanmugasundar
Special Government Pleader

O R D E R

The petitioner has come up with this writ petition for issuance of a Writ of Mandamus, forbearing the respondents from preventing the members of the petitioner's Sangam playing the game of Rummy along with Carom Board, Table Tennis, Chess at No.4/54, Ramapuram, Thundukadu, Perumagoundampatti Village, Ilampillai, Salem Taluk & District unless due process of law.

2. Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.V.Shanmugasundar, Special Government Pleader appearing for the respondents and perused the material documents available on records.

3.The learned counsel for the petitioner submitted that the issue in this writ petition is covered by the decision of this court as well as the Honourable Supreme Court.

4.In the case of ANANDHAM MANAMAGIL MANDRAM vs. THE SUPERINTENDENT OF POLICE, THENI AND OTHERS [2009-4-LW-153], wherein the learned single judge following the Division Bench judgment in MANAKADU ELAINGER NALA SPORTS, NARPANI MANDRAM vs. STATE OF TAMIL NADU, [2005 (1) CTC 245], the decisions of the Honourable Supreme Court judgment in KRISHNACHANDRA vs. STATE OF MADHYA PRADESH [AIR 1965 SC 307], STATE OF A.P. vs. K.SATYANARAYANA [AIR 1968 SC 825] etc., observed in paragraph No.16 as follows:

"16.Similar to the present writ petition, large number of Writ Petitions have been filed before this Court alleging harassment at the instance of the police in the lawful activities of the club and other recreational centres and as such, I am inclined to issue the following directions:-

(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 the 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.

17.The Writ Petition is disposed of with the above directions."

5.The learned Special Government Pleader fairly submits that the matter in issue is covered by the aforesaid judgment and similar direction may be issued in this writ petition also.

6.Under such circumstances, this writ petition is disposed of, in terms of the judgment as stated supra, particularly in paragraph (16) and the respondents shall not interfere with the day-to-day activities of the petitioner/Association, except on a specific complaint alleging any illegal conduct. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

- 1.The Superintendent of Police,
Salem Rural,
Nethimedu, Salem -2.
- 2.The Deputy Superintendent of Police,
Sankagiri,
Salem District.
- 3.The Inspector of Police,
Magudanchavadi Police Station,
Magudanchavadi,
Salem District.

+1 CC to Mr.C.Prakasam Advocate Sr.No.10229

+1 CC to Government Pleader, High Court, Chennai Sr.No.10638

W.P.No.26550 of 2013

KP(28/02/2018)