

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2018

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THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.Nos.8734 of 2017 and 13498 of 2018
and WMP.No.15894 of 2018

WP.No.8734/2017:

P.Reena

... Petitioner

Vs

1.State of Tamil Nadu

Rep.by its Chief Secretary,
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Vepery, Chennai.

3.The Inspector of Police,
S-6, Pammal Police Station,
Pammal, Chennai.

.... Respondents

WP.No.13498/2018:

Pushpa

... Petitioner

Vs

1.The Government of Tamilnadu

Rep.by its Secretary (Home),
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
Coimbatore City,
Coimbatore District.

3.The Inspector of Police,
Peelamedu Police Station,
Coimbatore District.

... Respondents

WP.No.8734/2017: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, directing and forbearing the 2nd and 3rd respondents from interfering with the opening and services of the business premises of the petitioner studio face family beauty care and Spa at No.9, Aringar Anna Street, Sri Venkateshwara Nagar, Anakaputhur, Tambaram Taluk, Kancheepuram District.

WP.No.13498/2018: Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, forbearing the respondents from interfering with the business activities of the petitioner in offering of massage to customers, without following due process of law.

For Petitioner : Mr.R.Sivagurunathan
in W.P No.8734/2017

For Petitioner : Mr.S.Gunalan in
in W.P No.13498/2018

For Respondents : Mr.J.Ramesh
in both WPs Additional Government Pleader

COMMON ORDER

The prayer made in these writ petitions is to forbear the respondents from interfering with the Spa business of the petitioners and also to direct the respondents 2 and 3 to give proper instructions / circulars to act upon.

2. According to the petitioners, they are into trading Ayurvedic Products and conducting Ayurvedic Centre, including Massage Therapy in accordance with law. While so, the Police officials are frequently visiting their business places under the guise of inspection and interfering with their business activities, thereby, causing hardship to their customers. Some of the petitioners allege that such action is pursuant to the false complaint made by the owners of the premises to the effect that the petitioners are involving in illegal activities. Hence, the petitioners are before this Court.

3. The learned counsel for the petitioners 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 these writ petitions as well.

4. The learned Additional Government Pleader appearing for the respondents submitted that on receipt of complaints stating that without licence/registration certificate, the petitioners are running their business illegally, the respondent police have conducted enquiry and hence, they have no intention to interfere with the business of the petitioners.

5. Heard both sides and perused the records.

6. The petitioners have sought appropriate direction to the respondents, alleging that the respondent - police are frequently interfering with the spa/massage business of the petitioners, 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 petitioners do not carry on any activity, which is prohibited by law, within their four walls.

7. On a perusal of the documents produced before this Court, it could be seen that the petitioners have not obtained any licence/registration certificate from the statutory authorities for running their business. Further, they have not submitted any representation to the concerned respondent for appropriate orders. In such circumstances, considering the submissions of the respondents, on the basis of the complaints received, that the practice of massage therapy and the running of massage business may, in all probability, be associated with unlawful activities and pose a serious threat to decent living in the local community, this Court is not inclined to grant any relief to the petitioners.

8. As a sequitur, both the writ petitions are dismissed. However, the petitioners are at liberty to approach the respondent authority for appropriate relief. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Chief Secretary,State of Tamil Nadu
Fort St.George,
Chennai - 600 009.

2.The Commissioner of Police,
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3.The Inspector of Police,
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Coimbatore District.

5.The Inspector of Police,
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+1 cc to The Government Pleader, Sr.No.76418

W.P.Nos.8734 of 2017
and 13498 of 2018

NMI (CO)
CSL/11.01.2019



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