



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.11.2018

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.(MD)No.21997 of 2018

Rajesh G.Kurup,
Abhiru Spa,
No.18 & 19, Puthunatham Road,
Madurai.

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai District,
Madurai.

2.The Inspector of Police,
Tallakulam Police Station,
Madurai.

...Respondents

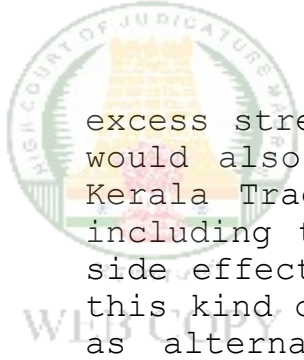
Prayer :Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents or their men, agents not to interfere with the peaceful conduct of business in Centre situated at Abhiru Spa, No.18 & 19, Purdhunatham Road, Madurai.

For Petitioner : M/s.R.Chandrasekar
For Respondents : Mr.R.Anandharaj
Addl. Public Prosecutor

O R D E R

This petition has been filed seeking direction to the respondents or their men, agents not to interfere with the peaceful conduct of business in Centre situated at Abhiru Spa, No.18 & 19, Purdhunatham Road, Madurai.

2. The learned Counsel for the petitioner would submit that the petitioner is running Ayurvedic Massage in the name and style of 'Abhiru Spa', as per standard prescribed to run an Ayurvedic Massage/Treatment and SPA and also paying Madurai Corporation Tax for running the SPA Centre. The learned Counsel further would submit that the petitioner has been running the Centre in accordance with law without any room for any complaint from any queries and that the petitioner is a qualified expert and trained in different types massaging for curing many ailment which are caused due to



excess stress and wear and tear of Urban Life. The learned Counsel would also submit that the principle of massage in Ayurveda is a Kerala Traditional treatment which cures many illness in the body including the nerves disorder in a slow phase process without any side effect and the customers come to this Centre for treatment and this kind of treatment has been widely accepted throughout the world as alternative medicine. He would submit that there is no law regulating all these business nor any license is required from the respondent police or any other authorities and also there is no specific legal provision under any act which obliges a Spa Centre to be licensed by the respondents. The learned Counsel would also submit that the respondents under the guise of conducting raids and interfering that the running of the business and thereby affect the reputation of the petitioner. The learned Counsel also would submit that in the similar circumstances, the police interfered with the business of Spa running by various other Spa owners, the city at Madras and they had approached the Principal Bench of this Hon'ble Court and this Court had in the decision reported in 2015 (1) CTC 702, had passed directions to the respondents in respect of regulating the business of Massage Parlours and Spa and he would refer to Para Nos.64 & 65 of the Judgment of this Court. He would also submit that the petitioner has never been brought to any adverse notice and no complaint has been given by anybody against the petitioner.

3. The learned Additional Public Prosecutor would submit that they only received complaints from several persons that under the guise of running Spas, certain persons are indulging in illegal trade.

4. The respondents also filed a counter and stated that, since such type offences were committed in the City of Madurai, under the guise of running Spa. The Deputy Commissioner of Police (Law and Order) had issued a Memorandum vide in C.No.86/Important/DC/L&O/MC/2018 dated 24.10.2018 and gave instructions to check all the Beauty Parlours and Massage Centres and review the license which were obtained from Corporation under Section 360 of Corporation Act and also verify that the workers in Beauty Parlour and Massage Centres and also verify that the certificates issued to the workers in the massage Centres and that they have not illegally interfered with the trade of the petitioner. However, the learned Additional Public Prosecutor would fairly submit that the petitioner has not been brought to any adverse notice so far.

5. In view of the same and the earlier directions passed by this Court in 2015(1) CTC 702, this Court is inclined to pass the following Order;

1. 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 petitioner;



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2. 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.

3. Based upon the laws enacted in various States of the United States of America and Singapore, the respondents may take appropriate steps for bringing in either a new legislation or a subordinate legislation in terms of the provisions of the Madurai City Municipal Corporation Act or the Madurai 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.

6. With the above observations, the writ petition disposed of.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Superintendent of Police,
Madurai District,
Madurai.

2. The Inspector of Police,
Tallakulam Police Station,
Madurai.

- 1 CC TO M/s.R.Chandrasekar , ADVOCATE IN SR No.95700.
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- KSA
- DS RSK SAR1 30 11 2018 3P 4C

order made in
W.P. (MD) No. 21997 of 2018
16.11.2018.