

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

Writ Petition No.1374 of 2019

Aquariis and Orchids
No.4/809, New No.3/99, Velachery Main Road,
Sentamil Nagar,
Medavakkam,
Chennai - 100
represented by its Proprietor
Mr.Abdul Rahman. Petitioner

Vs.

1. State rep. By
The Secretary to Government
of Tamilnadu,
Home Department,
St.George Fort, Secretariat,
Chennai - 600 009.
2. The Commissioner of Police,
Office of the Commissionerate,
Vepery,
Chennai - 600 007.
3. The Assistant Commissioner of Police,
Anti-Vice Squad Police,
Chindhadiripet,
Chennai - 2.
4. The Inspector of Police,
Pallikaranai Police Station,
Medavakkam, Chennai - 100
5. The Special Officer,
Medavakkam Panchayat,
Medavakkam,
Chennai - 100. Respondents

Prayer:Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the respondents 2 to 4 from in any way interfering with my business of treatment done by the qualified therapist for opposite sex in the Aquaris and Orchids ayurvedic spa centre, represented by the

proprietor in the name of Mr.Abdul Rahman functioning at No.4/809, New No.3/99, Velachery Main Road, Sentamil Nagar, Medavakkam, Chennai-100.

For Petitioner : Mr.R.Mohanan

For Respondents : Mr.R.Govindasamy,
Special Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of mandamus, forbearing the respondents 2 to 4 from in any way interfering with his business of treatment done by the qualified therapist for opposite sex in the Aquaris and Orchids ayurvedic spa centre, represented by the proprietor in the name of Mr.Abdul Rahman functioning at No.4/809, New No.3/99, Velachery Main Road, Sentamil Nagar, Medavakkam, Chennai-100.

2. According to the petitioner, he is running the Ayurvedic Spa Centre at Medavakkam, Chennai, from December, 2018, in accordance with law. The petitioner states that the local Police came to the petitioner's premises and took photographs of the Spa and they orally stated to close down the business. Since the respondent police are interfering with the petitioner's business, the petitioner has come forward with the present Writ Petition.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. The learned Special Government Pleader, based on instructions, submitted that there is no previous case registered against the petitioner's Aquariis and Orchiids Spa Centre.

5. This Court, in similar circumstances, following the ratio laid down by this Court in the judgment report in 2015(1) MLJ 308 [Masti Health and Beauty Private limited & Others V. The Commissioner of Police, Chennai City], disposed of the Writ Petition in W.P.No.9380 of 2016, by order dated 14.03.2016, by directing the respondents-police to comply with the directions/conditions imposed in paragraph 67 of the order in the judgment reported in 2015 (1) MLJ 308 (cited supra) and further made it clear that the petitioner therein under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order.

6. Since the issue involved in the present Writ Petition is identical to the issue involved in W.P.No.9380 of 2016, it is relevant to extract para 67 of the order passed in 2015(1) MLJ 308 (cited supra), which reads as follows:-

"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) Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, 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."

7. In the light of the said order, the Writ Petition is disposed of, by directing the respondents-police to comply with the directions imposed in para 67 of the order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order.

8. With these observations, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government
of Tamilnadu, Home Department,
St.George Fort, Secretariat,
Chennai - 600 009.
2. The Commissioner of Police,
Office of the Commissionerate,
Vepery, Chennai - 600 007.
3. The Assistant Commissioner of Police,
Anti-Vice Squad Police,
Chindhadiripet,
Chennai - 2.
4. The Inspector of Police,
Pallikaranai Police Station,
Medavakkam, Chennai - 100
5. The Special Officer,
Medavakkam Panchayat,
Medavakkam,
Chennai - 100.

+1cc to Mr. R.Mohanar, Advocate SR.No. 9807

A.SK (25/02/2019) W.P.No.1374 of 2019

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