

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.07.2019
CORAM
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU
W.P. No. 17453 of 2019

Sri Sai Ayurvedic Beauty Clinic,
Represented by its Proprietor,
Mrs. Yasmin Sulthana,
Survey Narayana Street Extension,
Peramanoor,
Salem - 636 007.

... Petitioner

-vs-

1. The State of Tamil Nadu,
Rep. by the Secretary,
Home Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City,
Salem District.
3. The Inspector of Police,
Hasthampatty Police Station,
Hasthampatty,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Third Respondent from disturbing and interfering with the peaceful conduct of the Petitioner's business offering various massage therapies, viz., cross massage in the name and style of Sri Sai Ayurvedic Beauty Clinic at Survey Narayana Street Extension, Peramanoor, Salem - 636 007.

For Petitioner : Mr. S. Gajendran

For Respondents : Mr. R. Venkatesh,
Government Advocate

O R D E R

Heard Mr. S. Gajendran, Learned Counsel for the Petitioner and Mr. R. Venkatesh, Learned Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the Third Respondent from disturbing and interfering with the peaceful conduct of the business of the Petitioner offering various massage therapies, viz., cross massage in the name and style of Sri Sai Ayurvedic Beauty Clinic at Survey Narayana Street Extension, Permanoor, Salem - 636 007. In support of the aforesaid relief claimed, reliance was placed by the Learned Counsel for the Petitioner on the decision of this Court in M/s. Masti Health and Beauty Private Limited -vs- Commissioner of Police, Chennai (order dated 09.12.2014 in W.P. No. 24629 of 2014 etc., batch). In that decision, this Court has held 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 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 31.03.2015, before this Court, about the decision taken. No costs. Consequently, all connected pending MPs are closed."

3. Learned Government Advocate appearing for the Respondents submits that the Government of Tamil Nadu accepting the suggestions made by this Court in the aforesaid decision, has made necessary amendments to the Chennai City Municipal Corporation Act, 1919, and in the enactments relating to other Urban Local Bodies, which have come into force with effect from 01.02.2019. It is further informed that the Petitioner has applied and obtained necessary licence bearing No. 16/2018/02 issued by the Assistant Commissioner, Hasthampatty Ward Office, Salem Corporation, which is valid till 31.03.2020. Further, no material has been placed before this

Court by the Respondents to show that the Petitioner has committed any offence or other illegal activity prohibited by law in the conduct of spa business.

4. In view of the aforesaid submissions made by the Learned Counsel for both sides, the following directions are issued:-

- (i) the Petitioner is entitled to carry on lawful business of spa activities within the premises and normally there would not be any interference from the police authorities so long as the activities are not in violation of the provisions of any law including the Immoral Traffic (Prevention) Act, 1956;
- (ii) if the Police Authorities have specific information or reasonable doubt that the activities carried on in the spa of the Petitioner are in violation of law or relate to unlawful activities including those prohibited by the provisions of the Immoral Traffic (Prevention) Act, 1956, it would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the premises of the Petitioner, conduct investigation, interrogate those who are involved in such activities and take appropriate action in accordance with law;
- (iii) the Police Authorities shall not otherwise unnecessarily disturb the activities of spa of the Petitioner under the guise of inspection;
- (iv) while exercising the powers conferred on the police authorities, they shall strictly follow the procedure prescribed by law;
- (v) it is always open to the Petitioner to challenge the action taken by the Police, if it is not in accordance with law;
- (vi) the Petitioner shall comply with the requirements of the police authorities to install CCTV cameras at the locations earmarked and shall furnish the footages to the police authorities, whenever required; and
- (vii) it shall be incumbent upon the Petitioner to ensure that all licences required under various enactments applicable to the conduct of business of spa of the Petitioner, are in force in order to avail the benefit of this order and in the event of the same getting expired by lapse of time, suspended or cancelled by the concerned authorities, the Petitioner shall not be entitled to rely on this order to avoid the consequences arising therefrom.

5. The Writ Petition is disposed on the aforesaid terms.
No costs.

-s/d-
Asst.Registrar (Insp Cell)

/true copy/

Sub Asst. Registrar

vjt
To

1. The Secretary to the Government of Tamil Nadu,
Home Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Police,
Salem City,
Salem District.
3. The Inspector of Police,
Hasthampatty Police Station,
Hasthampatty,
Salem District.

+1 cc to Government Pleader sr 63363

W.P. No. 17453 of 2019

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