



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 21.11.2019
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 22082 of 2019
and
W.M.P. No. 21345 of 2019

N. Sindhu

... Petitioner

-vs-

1. The Commissioner of Police,
Salem,
Salem District.
2. The Inspector of Police,
Annathanapatty Police Station,
Salem.
3. The Commissioner,
Salem Corporation,
Salem,
Salem District.

... Respondents

(R3 impleaded vide order dated 21.11.2019
in W.M.P. No. 32005 of 2019)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the Respondents or their men or agents from interfering with peaceful conduct of business in the name of "Sri Sairam Natural Ayurvedic Spa" at No. 3/318, A.C. KAK Complex Seelanaiakanpatty, Bypass Road, Salem District run by the Petitioner.

For Petitioner : Mr. T. Saravanan

For Respondents : Mr. R. Venkatesh,
Government Advocate (for R1 and R2)

S. Sathish,
Standing Counsel (for R3)



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O R D E R

This Writ Petition has been filed to forbear the Respondents or their men or agents from interfering with peaceful conduct of business in the name of "Sri Sairam Natural Ayurvedic Spa" at No. 3/318, A.C. KAK Complex Seelanaiakanpatty, Bypass Road, Salem District run by the Petitioner.

2. 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. In response to that contention, Learned Government Advocate appearing for the First and Second Respondents submitted that accepting the suggestions made by this Court in the aforesaid decision, amendments have been made to the Chennai City Municipal Corporation Act, 1919, as well as in the laws relating to other urban local bodies in the State of Tamil Nadu, which have come into force with effect from 01.02.2019 as per



which licence is required to be obtained by the Petitioner for carrying on business of spa in any premises within the territorial limits of the respective local bodies.

4. Learned Counsel for the Petitioner submits that the Petitioner has not obtained the requisite licence under the relevant enactment for carrying on business of spa in the premises of the Petitioner.

5. It is well settled legal position that a mere contemplation or possibility that a right may be infringed without any legitimate basis for that right, would not give rise to a cause of action. In such circumstances, the question of granting the relief sought by the Petitioner in the Writ Petition does not arise for consideration.

6. In view of the aforesaid legal position coupled with the facts of this case, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to the Petitioner to apply and obtain such licence for carrying on business of spa in the premises of the Petitioner and leave it open to the Petitioner to work out his remedies in that regard and he has made an endorsement to that effect.

7. Recording the same, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

vjt
To

1. The Commissioner of Police,
Salem,
Salem District.
2. The Inspector of Police,
Annathanapatty Police Station,
Salem.



3. The Commissioner,
Salem Corporation,
Salem,
Salem District.

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+1 cc to M/s.S.Sathish Advocate sr 97424
+1 cc to M/s.T.Saravanan Advocate sr97485
+1 cc to Government Pleader sr97564

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aa09/12/2019