



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2019

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28785 of 2019

M/s. PSS Sports and Recreation Club,
Rep. By its President,
Mr. P. Suresh Kumar,
Thiruvagoundanur (East) Salem,
Suramangalam,
Salem 636 005.

... Petitioner

-vs-

1. The Superintendent of Police,
District Police Office,
Neethimedu,
Salem 636 002.
2. The Assistant Commissioner of Police,
Suramangalam Main Road,
Subramania Road,
Suramangalam,
Salem 636 005.
3. The Inspector of Police,
Suramangalam Police Station,
Suramangalam Main Road,
Subramania Nagar,
Suramangalam,
Salem 636 005.
4. The District Registrar (Admin),
Registrar of Societies (AIG Cadre),
Salem West,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Third Respondent not to disturb the Petitioner club frequently under guise of inspection and consider the representation dated 08.07.2019.

For Petitioner : Mr. S. Jebadass Pandian



For Respondents: Mr. M. Karthikeyan,
Additional Government Pleader

O R D E R

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Heard Mr. S. Jebadass Pandian, Learned Counsel for the Petitioner, Mr. M. Karthikeyan, Learned Additional Government Pleader 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 consider the representation of the dated 08.07.2019 made by the Petitioner and forbear the Third Respondent from disturbing the Club of the Petitioner frequently under the guise of inspection.

3. In support of the aforesaid relief claimed, reliance is placed by the Learned Counsel for the Petitioner on the decision of the Learned Judge of this Court in the order dated 05.03.2012 in W.P. No. 2972 of 2012, but the Learned Additional Government Pleader appearing for the Respondents points out that the aforesaid decision has been partly set aside by the Division Bench of this Court in Director General of Police, Chennai -vs- S. Dillibabu (order dated 06.10.2017 in W.A. No. 296 of 2013) following the dictum laid down by the Constitution Bench of the Hon'ble Supreme Court of India in State of Bombay -vs- R.M.D. Chamarbaugwala (AIR 1957 SC 699), in which it has been ruled that such relief cannot be granted which has the effect of preventing the police personnel from doing their lawful duty to ensure that no gambling activities take place in clubs. Learned Additional Government Pleader appearing for the Respondents further submits that necessary licence has to be obtained under Section 3 of the Tamil Nadu Public Buildings (Licensing) Act, 1965, for running club in the building as per the Judgment of the Division Bench of this Court in I. Mohammed Razvi -vs- District Collector, Madurai (order dated 12.12.2017 in W.P. (MD) Nos. 23753, 20775 and 2188 of 2016 and W.P. (MD) No. 12915 of 2017).

4. Having regard to the aforesaid rival contentions, this Court by order dated 01.10.2019 required the Respondents to inspect the premises of the Petitioner with reference to the activities mentioned in the affidavit and file report. In furtherance to the same, the Third Respondent has filed a Status Report dated 19.10.2019 in which it has been stated as follows:-

"2. On verification of the registration certificate that the Petitioner's club has been registered as per Tamil Nadu Societies Registration Act (Sec. 13(1) (Tamil Nadu Act 27 of 1975) vide Registration No. 48/2019 on 02.05.2019 at the Office of the Registrar of Societies, Salem West under the name and style "PSS



Sports and Recreation Club, Salem". There is a name board in the front side of the premises. On verification of the members list there are 7 members at present. At present there are four Badminton (Shuttle) courts built up in the area of 110' X 70' square feet. Apart from the members of the club, School children and outsiders given training to play Badminton. Two tables are available for playing Chess and Carrom. There are four cabin with an area of 11 X 11 square feet and a hall with 28 X 26 feet available for the above purpose in the club. As of now, there is no Rummy or Table Tennis or Snooker games are played. Parking space is available for parking around 10 cars or 20 to 30 two wheelers. It is located in the commercial area. So far the club has not come to any adverse notice and no case is pending against the club. No complaints from the nearby residents against the functioning of the club.

3. The averment of the Petitioner is not correct with regard to the allegation of frequent visit by the Third Respondent under the guise of inspection. The Third Respondent have not made any such visit except the present inspection to file this status report to inspect the club once. If any adverse complaint is received from the public against any illegal activities of the petitioner's club, appropriate legal action will be taken in accordance with law."

5. Learned Counsel for the Petitioner submits that the Petitioner has obtained the licence under Section 3 of the Tamil Nadu Public Buildings (Licensing) Act, 1965, for running club in the building and has produced a copy of the same.

6. In view of the aforesaid submissions made by the Learned Counsel for both sides and taking into account the report filed by the Respondents, the following directions are issued:-

- (i) the Petitioner and its members are entitled to carry on lawful activities within their premises and normally there would not be any interference from the police authorities so long as their activities are not in violation of the provisions of any law including the Public Gambling Act, 1867, and Tamil Nadu Gaming Act, 1930;
- (ii) if the Police Authorities have specific information or reasonable doubt that the activities carried on by the Club or its members are not in violation of law or they indulge in unlawful activities including those prohibited by the provisions of the Public Gambling Act, 1867, and Tamil Nadu



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Gaming Act, 1930, it would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the club premises, 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 Club 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 Club or its members to challenge the action taken by the Police, if it is not in accordance with law;
- (vi) the Club 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 Club to ensure that all licences required under various enactments applicable to the Club 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 Club shall not be entitled to rely on this order to avoid the consequences arising therefrom.

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

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

gsa/vjt

To

1. The Superintendent of Police,
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Salem 636 002.



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+1 CC to Mr.R. Bhagwat Krishna, Advocate sr 92185.

W.P. No. 28785 of 2019

RSI (CO)
SP(07/01/2020)