

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.31585 of 2019

Natural Care Beauty Parlour & SPA
Represented by its Proprietor
Mr.B.S.Mahendra Babu
No.21/174A, Ground Floor
Kannagi Street, Ashram Road
Salem 636 004.

.. 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
Alagapuram Police Station
Alagapuram
Salem District.
- 4.The Commissioner
Salem Corporation
Salem.

[R4 impleaded as per order dated 19/12/2019 made
in W.M.P.No. 33254 of 2019 in W.p.No. 31585]

.. Respondents

PRAYER : 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 Natural

Care Beauty Parlor and SPA No.21/174A, Ground Floor, Kannagi Street, Ashram Road, Salem 636 004.

For Petitioner : Mr.K.Venkatesan

For RR 1 & 3 : Mr.N.Inbanathan
Additional Government Pleader

For 2nd Respondent : Mr.S.Sathish

O R D E R

Heard Mr.K.Venkatesan, learned Counsel for the Petitioner and Mr.N.Inbanathan, learned Additional Government Pleader appearing for the Respondents 1 & 3 and Mr.S.Sathish, learned counsel appearing for the second respondent and also 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 petitioner's business offering various massage therapies viz. , cross massage in the name and style of Natural Care Beauty Parlor and SPA No.21/174A, Ground Floor, Kannagi Street, Ashram Road, Salem 636 004. 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."

3. Learned Additional Government Pleader appearing for the Respondents 1 & 3 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.

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 ear marked 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.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

vsg

To

1. The Secretary
State 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
Alagapuram Police Station
Alagapuram
Salem District.

4.The Commissioner
Salem Corporation
Salem.

+lcc to M/s.K.Venkatesan, Advocate SR.105962
+lcc to the Government Pleader SR.106274

W.P.No.31585 of 2019

VSI-II (CO)
CB(19/02/2020)



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