



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2019

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THE HONOURABLE MR.JUSTICE N.SESHASAYEE**W.P.(MD)No.5492 of 2019**

A.N.Gaffur Ahmed Sha

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Assistant Commissioner of Police,
Thilagar Thidal (L& O),
Madurai City.

3.The Inspector of Police,
S.S.Colony Police Station,
Madurai City.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to forbear the respondents 2 and 3 and their subordinates from in any manner interfering with the rights of the members of the petitioner's club namely the Caribbean Recreation Club to play the game of rummy and other indoor games in the premises of the petitioner club namely the Caribbean Recreation Club situated at No.42-A, Ponmeni Narayanan Street, S.S.Colony, Madurai-18, by considering the petitioner's representation dated 22.02.2019.

For Petitioner : Mr.M.Solaisamy

For Respondents : Mrs.S.Bharathi

Government Advocate

ORDER

This writ petition has been filed to forbear the second respondent herein from interfering with the lawful day-to-day activities of the Association namely Caribbean Recreation Club without following due process of law.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner submitted that the third respondents are disturbing the functioning of a certain of recreation club, of which the petitioner is the Secretary.



4. The learned Government Advocate, on instructions, submitted that there is no interference to the lawful activities of the petitioner's Club, namely, "Caribbean Recreation Club", of which the petitioner is a Secretary. She would further submit that a case has been registered against the petitioner in Crime No.20 of 2019 for the offence under Sections 45 and 46 of Tamil Nadu City Police Act, 1888 for unlawful functioning of Gaming House. She also submitted that the case has been charge sheeted.

5. So far as the case registered against the petitioner is concerned, the petitioner is required to take legal recourses as available to him.

6. The learned counsel for the petitioner relied upon a judgment of this Court in the case of **Anandham Manamagil Mandram, Kamachiamman Street, War No.18, Gudalore (Post) Uthamapalayam Theni District, Rep.by its Secretary, V.Elacham vs. The Superintendent of Police, Office of the Superintendent of Police, Theni, Theni District and two others [2009 (4) CTC 264]**, wherein this Court has issued a set of directions.

7. For the sake of convenience, the directions issued by this Court in the above said writ petition is extracted below:

"(i) The petitioner and the members of the club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930;

(ii) In normal circumstances, there should be no interference in the lawful functioning of the clubs by the police. It is not permissible for the police to enter the club premises as a routine measure, so long as the clubs are functioning within the frame work of law;

(iii) If the police authorities have specific information or reasonable doubt that the activities carried on by the club or its members are not in accordance with law or they indulge in unlawful activities in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930 or any other enactment, 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 involve themselves in such activities and take appropriate action on merits and as per law;

(iv) While exercising the powers conferred on the police authorities, they should follow the mandatory



provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gaming Act, 1867;

(v) It is always open to the club or its members to challenge the action taken by the police, if it was not in accordance with law;

(vi) In case the police authorities were of the opinion that a situation has arisen to suspend the operation of the club in exercise of the powers conferred, they have to issue an order in writing. When there is no authority granted to the police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

(vii) Before passing orders for the purpose of closure of the club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given."

8. In view of the above, this writ petition is disposed of directing the petitioner to follow the directions issued by this Court as extracted herein above. No costs.

Sd/-

Assistant Registrar (P AND A)

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Sub Assistant Registrar (CS II)

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To

1. The Commissioner of Police,
Madurai City, Madurai.

2. The Assistant Commissioner of Police,
Thilagar Thidal (L& O), Madurai City.

3. The Inspector of Police,
S.S.Colony Police Station, Madurai City.

+1 CC to M/s.M.SOLAISAMY, Advocate (SR-59608[F] dated 08/04/2019)