



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2019

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THE HONOURABLE MR. JUSTICE N. SESHASAYEE

WP (MD) .No.6616 of 2019

WEB COPY

S.Malaisamy

.. Petitioner

Vs.

1.The Superintendant of Police,
Madurai District.

2.The Deputy Superintendant of Police,
Usilampatti, Madurai District.

3.The Inspector of Police,
Elumalai Police Station,
Madurai District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st and 2nd respondent to instruct the 3rd respondent to permit petitioners club namely "Seven Hills Recreation Club" Registered Society (Sl.No.222 of 2018) to function at 465/6a, Gopalapuram Road, Elumalai, Peraiyur Talu, Usilampatti, Madurai District and consequently forbear the respondents and their subordinate officials from in any manner interfering nor disturbing with the day to day activities of the petitioner's Club without following the due process of law.

For Petitioner

: Mr. V. Manikandan

For Respondents

: Mrs.S. Bharathi

Government Advocate (Crl. Side)

ORDER

The present petition is filed seeking a Writ of Mandamus directing the third respondent not to interfere in the lawful activities of the petitioner's Club namely "Seven Hills Recreation Club" Registered Society (Sl.No.222 of 2018) to function at 465/6a, Gopalapuram Road, Elumalai, Peraiyur Taluk, Usilampatti, Madurai District

2. However, the learned counsel for the petitioner sated that the petitioner is willing to abide by the conditions earlier framed by this Court in the state of this regard in WP(MD). No.3595 of 2018, dated 27.04.2009. The conditions mentioned in the said order reads as follows:

(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 the 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 of 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 police authorities, they should follow the mandatory provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gambling 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.

3. Heard the learned Government Advocate (Crl. Side) appearing for the respondents.

4. Accordingly, the petitioner is directed to file a fresh petition to the third respondent giving the above undertakings and comply with the said condition.



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5. This Writ Petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendant of Police,
Madurai District.

2.The Deputy Superintendant of Police,
Usilampatti, Madurai District.

3.The Inspector of Police,
Elumalai Police Station,
Madurai District.

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SP/01.04.2019/ 3P/4C