



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**W.P.(MD)No.6857 of 2019

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Rose Recreation Club,
Registration No.4/2019,
represented by its Secretary,
A.Annadurai.

... Petitioner

Vs

1.The Superintendent of Police,
Office of the Superintendent of Police,
Pudukottai District.

2.The Inspector of Police,
Viralimalai Police Station,
Viralimalai, Pudukottai District.

3.The Block Development Officer,
Viralimalai Panchayat Union,
Viralimalai, Pudukottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to forebear the second respondent and their subordinates from in any manner interfering with the rights of the members of the petitioner's Club, namely, Rose Recreation Club to play "Rummy" (13 Cards), other indoor games and other games in the premises of his club situated at Urathikadu, Nammampatti, Rajalipatti Post, Viralimalai Taluk, Pudukottai District.

For Petitioner : Mr.S.Karthick Subramanian

For R1 and R2 : Mrs.S.Bharathi
Government Advocate (Crl.Side)

For R3 : Mr.S.Bagavathy

ORDER

The present petition is filed to forebear the second respondent and their subordinates from in any manner interfering with the rights of the members of the petitioner's Club, namely, Rose Recreation Club to play "Rummy" (13 Cards), other indoor games and other games in the premises of his club.

2.Heard the learned Counsel appearing for the petitioner, learned Government Advocate (Crl.side) appearing for the first and second respondents and the learned Counsel appearing for the third respondent.



3.The learned Government Advocate (Crl.side) appearing for the respondent police would fairly submit that in an identical matter, this Court has passed an order on 27.01.2012, in W.P.No.1952 of 2012 with certain conditions to the respondents. He submits that similar order could be passed in this writ petition. A copy of the order has also been produced before this Court.

4.The learned Counsel appearing for the petitioner after perusing the copy of the order would submit that similar order could be passed in this writ petition also. He also relied upon the order of this Court in W.P.No.6175 of 2014, dated 17.03.2015.

5.The submissions made on either side are recorded. Accordingly, the writ petition is disposed of with the following conditions:

"1.The petitioner and the members of the petitioner 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;

2.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;

3.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;

4.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 Gambling Act, 1867;

5.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;



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In case the Police authorities are 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 to the Police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

6. 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."

6. In the result, the writ petition is disposed of in the above terms. No costs.

Sd/-

Vacation Officer/
Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

cmr

To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Pudukottai District.
2. The Inspector of Police,
Viralimalai Police Station,
Viralimalai, Pudukottai District.
3. The Block Development Officer,
Viralimalai Panchayat Union,
Viralimalai, Pudukottai District.

+1CC TO MR.S.KARTHICK SUBRAMANIAN, Advocate Sr. No.5760

W.P. (MD) No. 6857 of 2019
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DKS (CO)

TR (24.05.2019) 3P 5C