



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE **N.SESHASAYEE**

W.P.(MD)No.7883 of 2019

T.K.P.Rajapandian

... Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Inspector of Police,
Suthamalli Police Station,
Suthamalli, Tirunelveli District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent not to harass the petitioner's Club "Vijay Sayee Manamahil Mandram" (Tamil Nadu Society Registration Act and the registration No.29/2018) at V.O.C.Street, Suthamalli Village, Tirunelveli District, on the basis of the petitioner's representation, dated 05.03.2019.

For Petitioner : Mr.E.Somasundaram

For Respondents : Mrs.S.Bharathi,
Government Advocate (Crl.side)

ORDER

The present petition has been filed to direct the respondents not to harass the petitioner's Club, "Vijay Sayee Manamahil Mandram", on the basis of the petitioner's representation, dated 05.03.2019.

2.Heard the learned Counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondents.

3.The learned counsel for the petitioner submitted that the second respondent is disturbing the functioning of a certain of recreation club, of which the petitioner is the President.

4.The learned Government Advocate, on instructions, submitted that there is no interference to the lawful activities of the petitioner's Club, "Vijay Sayee Manamahil Mandram", of which the petitioner is a President.



5. The learned counsel for the petitioner relied upon a judgment of this Court in the case of **Anandham Manamagil Mandram, Kamachiamman Street, Ward 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.

6. 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 principals 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 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 (AS)

// True Copy //

Sub Assistant Registrar (CS)

cmr

To

1. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
2. The Inspector of Police,
Suthamalli Police Station,
Suthamalli, Tirunelveli District.

+2CC TO MR.E.SOMASUNDARAM, Advocate Sr. No. 58864

Order made in
W.P. (MD) No. 7883 of 2019
03.04.2019

PK (CO)
TR (06.05.2019) 3P 5C