



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. 8167 of 2019

and

W.M.P. (MD) No. 6421 of 2019

WEB COPY

Magilchi Recreation Club,
Rep by its President,
A.Ebinezar,
A Registered Society,
No.177/2018,
Agaram Jeeva Street,
Aranthangi,
Pudukkottai District.

... Petitioner

Vs.

1.The Superintendent of Police,
Pudukkottai District.

2.The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to forbear the second respondent herein from interfering with the lawful day-to-day activities of our association namely Magilchi Recreation Club without following the due process of law.

For Petitioner : Mr.D.Rameshkumar

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 Magilchi Recreation Club without following the 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 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, "Magilchi Recreation Club", 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, 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.

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. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS)

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To

1.The Superintendent of Police,
Pudukottai District.

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

+1 CC to M/s.D.RAMESHKUMAR, Advocate
(SR-59744[F] dated 09/04/2019)

Order made in
W.P. (MD) No.8167 of 2019
05.04.2019

ES/30.04.2019/3P/4C