



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.09.2019

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P. (MD) .No.19236 of 2019

and

W.M.P (MD) Nos.15623 and 15624 of 2019

WEB COPY

Dolphin Recreation Club,
Rep by its Secretary,
P.Baskaran

...Petitioner

Vs.

1.The Commissioner of Police,
O/o.The Commissioner of Police,
Alagar Kovil Main Road,
Madurai City and District.

2.The Deputy Commissioner of Police,
law and Order,
O/o.The Deputy Commissioner of Police,
Alagar Kovil Main Road,
Madurai City and District.

3.The Assistant Commissioner of Police,
Thirupparankundram Law and Order Range,
Thirupparankundram, Madurai District.

4.The Assistant Commissioner of Police,
Town (Traffic Range), Madurai Town,
Madurai.

5.The Inspector of Police,
Law and Order,
V2, Avaniyapuram Police Station,
Madurai City, Madurai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, seeking a Writ of certiorarified mandamus, to call for the records pertaining to the impugned order C.No.5938/V4/33/2019, dated 07.08.2019 on the file of the respondent No.1 and quash the same as illegal and consequently for a direction, directing the respondent No.1 to grant license to the Recreation Club of the petitioner in the name and style as Dolphin Recreation Club situated at R.S.No.320/2c, Bye Pass Road, Avaniyapuram, Madurai Town.

For Petitioner

: Mr.T.Lajapathi Roy

For Respondents

: Mr.R.Anandha Raj,

Additional Public Prosecutor



ORDER

This Writ Petition has been filed challenging the impugned order in C.No.5938/V4/33/2019, dated 07.08.2019 passed by the first respondent and directing him to grant license to the Recreation Club of the petitioner in the name and style as 'Dolphin Recreation Club' situated at R.S.No.320/2c, Bye Pass Road, Avaniyapuram, Madurai Town.

2.The learned counsel for the petitioner would submit that the petitioner construct a building for a club activities in the name and style of ' Dolphin Recreation Club' and the same has been registered under the Tamil Nadu Societies Registration Act, 1978 in Serial No.28 of 2018, dated 05.04.2018. The petitioner has fulfilled all mandates as required under the Tamil Nadu Fire and Rescue Service Department and from all concerned departments for the statutory requirement of license under the Tamil Nadu Public Resorts Act, 1888.

3.Considering the same, the Madurai Corporation issued license to operate the club dated 07.12.2018. He further submitted that the Recreation Club has allowed the members to play both indoor and out door games. In door games materials such as Chess, Carrom, Cards, Table Tennis are available in the petitioner's club. While being so, the fifth respondent interfered with the portion of the club and as such, the petitioner was constrained to file a writ petition before this Court in W.P.(MD)No.8719 of 2018, this Court by an order dated 18.07.2018, directed the petitioner to approach concerned authorities to get an appropriate license under the Tamil Nadu City Police Act.

4.Despite the petitioner was already granted license under the Tamil Nadu Public Resorts Act, the petitioner made an application before the first respondent for license under the Tamil Nadu City Police Act. The application annexed with all requirements as required under law and submitted the application. Unfortunately, the first respondent without non application of mind, mechanically rejected the petitioner's application. He further submitted that the petitioner was not given any opportunity of hearing before rejecting his application for license. Therefore, it is a violation of principle of natural justice and he sought for setting aside the impugned order.

5.Per contra, the learned Additional Public Prosecutor filed a counter affidavit and submitted that the petitioner's club is situated in adjacent to the Tasmac and it leads to heavy vehicle traffic and also made law and order problem. Further in the reasons stated in the impugned order are as follows:



i) The presence of TASMAC shop adjacent to the premises will lead to heavy vehicle traffic and also may lead to Law & Order Problem.

ii) No separate parking facility provided, as such two wheelers to be parked in road side will cause vehicular traffic and also for pedestrians. Parking four wheeler in the connecting road will also cause hindrance to traffic.

iii) Form-I, II, V, & VI for registration under Tamil Nadu Societies Registration Rules, 1978 is not produced.

iv) No emergency exit is provided in the premises.

v) No fire extinguishers is installed in the premises.

6.He further submitted that the first respondent rightly rejected the application for license to run the recreation club in the name and style of 'Dolphin Recreation Club'.

7.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

8.It is seen that the first respondent passed an impugned order under the Tamil Nadu City Police Act Section 76 is follows:

76.Power to cancel or suspend any licence and penalty for breach of conditions of licences.

(1) The Commissioner may, at any time and for reasons to be recorded in writing, cancel or suspend any licence granted under this Act.

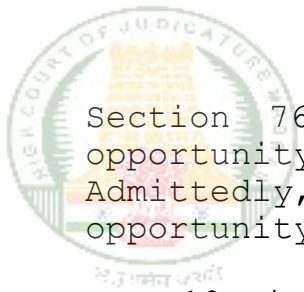
Provided that no such cancellation or suspension shall be ordered unless the holder of the licence has been given a reasonable opportunity of showing cause against the order proposed to be made in regard to him.

(1-A) Notwithstanding anything contained in the proviso to sub-section (1), in so far as it relates to suspension of any license granted under this Act, where a prima facie case has been made out, the Commissioner may, at any time and for the reasons to be recorded in writing, suspend any licence granted under this Act and ins such a case no show cause notice is necessary.

(2) In the event of breach by the holder of a licence granted under this Act or by his servants or by anyone acting or purporting to act with his express or implied permission on his behalf, of any of the conditions of such licence, such holder shall, in addition to the cancellation or suspension of the licence granted to him, be liable on conviction to a fine not exceeding one hundred rupees.

(3) Any persons who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, be liable to the same punishment.

9.As far as the application filed by the petitioner is concerned seeking license for running the recreation club. That apart the provision assigned that the license can be issued under



Section 76 of the said Act, the petitioner must be given an opportunity of show cause as against the petitioner herein. Admittedly, it is seen from the impugned order, there is no opportunity of hearing given to the petitioner.

10. Without considering the other points raised by the petitioner, the impugned order dated 07.08.2019 in C.No.5938/V4/33/2019 passed by the first respondent is set aside on the ground of violation of principle of natural justice alone.

11. However, the petitioner is directed to file a fresh application before the first respondent along with all required documents to rectify the earlier reasons for rejection within a period of two weeks from the date of receipt of a copy of this order.

12. On receipt of the same, the first respondent is directed to consider the same, after giving opportunity of hearing the petitioner within a period of four weeks from the date of receipt of application.

13. This Writ Petition is disposed of with the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

das

To

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Alagar Kovil Main Road,
Madurai City and District.
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O/o. The Deputy Commissioner of Police,
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