



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.09.2018

CORAM

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THE HON'BLE **MR. JUSTICE G.K.ILANTHIRAIYAN**

W.P. (MD)No.19671 of 2019

D.Usha

... Petitioner

Vs.

1. The District Superintendent of Police,
Nagercoil, Kanyakumari District

2. The Inspector of Police
Kanyakumari Police Station
Kanyakumari.

... Respondents

Prayer: Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus, forbearing the respondents 1 and 2 from interfering with the peaceful conduct of business at "Sneham Golden Ayurvedic Massage Centre", Near Sunset Tower, Kovalam Road, Kanyakumari.

For Petitioner : Mr.B.Michael Sebastin

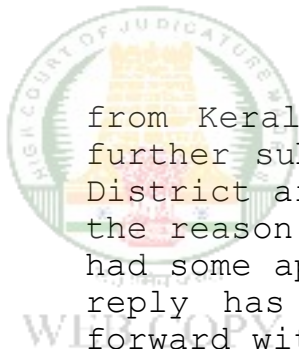
For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor

O R D E R

The prayer in this writ petition is to forbear the respondents 1 and 2 from interfering with the peaceful conduct of business at "Sneham Golden Ayurvedic Massage Centre", Near Sunset Tower, Kovalam Road, Kanyakumari.

2.The learned counsel appearing for the petitioner submitted that the petitioner running a therapy centre in the name of style of "Sneham Golden Ayurvedic Massage Centre", Near Sunset Tower, Kovalam Road, Kanyakumari, from 2018. He further submitted that he had license under Industries and Factories vide No.2501 to run the centre and entire business premises netted with CCTV Cameras and all the therapist were directed to wear uniform in the centre. He further submitted that on 09.12.2018 the grand opening function of the therapy centre took place and the same was attended by the prominent personalities in Kanyakumari. The well trained and well equipped therapist who have more than 10 years experience in the filed are appointed by the therapy centre and they are coming



from Kerala after completing their panchakarma therapy course. He further submitted that some of the therapy centres in Kanniyakumari District are being harassed by the police department only because of the reason that they are being therapy centre. Since the petitioner had some apprehension sent a representation dated 20.05.2019 and no reply has been received so far. Hence, the petitioner has come forward with this writ petition. The learned counsel for the petitioner also drawn the attention of this Court to the order dated 01.03.2019 passed by this Court in W.P.No. 4533 of 2017 in the case of M/s.Taksu Bali Spa Private Limited -vs- The Commissioner of Police, Coimbatore City and three others , wherein, this Court has taken into consideration the similar prayer and prays for similar orders.

3.The learned Additional Public Prosecutor, on instructions, would submit that there are no previous cases as against the petitioner's therapy Centre.

4.Heard Mr.B.Michael Sebastin, learned counsel appearing for the petitioner, Mr.R.Anandharaj , learned Additional Public Prosecutor appearing for the respondents.

5.It is seen that the petitioner is a Private Limited Company registered under the provisions of the Companies Act. The petitioner company is carrying therapy treatment. The petitioner has obtained necessary licence from the competent authority and also paid the necessary fees and taxes. The grievance of the petitioner is that the respondent police is harassing some of the therapy centres in Kanniyakumari to run the therapy Centre.

6.This Court on an earlier occasion had elaborately discussed about the similar subject and passed order dated 09.12.2014 in W.P.Nos.24629/2014 etc., batch reported in 2015[1]MLJ 308 in the case of Masti Health and Beauty Private Limited Vs. Commissioner of Police , Chennai. It is relevant to extract paragraph 66 & 67 of the above said order which reads as follows:-

"66.Therefore, if the respondents wish to regulate the business/profession of health centres, massage parlours and spas, they must take recourse either to the enactment of a legislation or to the issue of rules/by-laws in exercise of the power conferred by the respective enactments to make subordinate legislation.

67.In the light of the above, all the writ petitions are disposed of to the following effect:-

[I] In specific cases, where the police have reasonable grounds to believe that an offence punishable under the Immoral Traffic [Prevention] Act, has been or is being committed, it is open to the police to take action,



after scrupulously following all the steps indicated in Section 15 of the said Act. The steps to be followed are narrated by me in paragraph 28 above; and [iii] Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, the respondents may take appropriate steps for bringing in either a new legislation or a subordinate legislation in terms of the provisions of the Chennai City Municipal Corporation Act or the Chennai City Police Act, so that public order, decency and morality, which can form the basis for a regulatory law under Article 19(2) of the Constitution are taken care of. The Government shall file a report on or before 31.03.2015, before this Court, about the decision taken. No costs. Consequently all connected pending MPs are closed."

7. In the light of the said order, this Court is inclined to direct the respondents to comply with the directions/conditions imposed in paragraph 67 of the said order as extracted above. It is also made clear that the petitioner under the guise of carrying on business activity shall not indulge in any unlawful or illegal activities detrimental to law and order or public order. It is further made clear that this order will not prohibit the respondents/authorities concerned from interfering in the petitioner's business activities, if there is any violation on the part of the petitioner.

8. With the above direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

To:

1. The District Superintendent of Police,
Nagercoil, Kanyakumari District.

2. The Inspector of Police
Kanyakumari Police Station, Kanyakumari.

+1 CC to M/s.B.MICHEAL SEBASTIN, Advocate SR-86505[F] dated 13/09/2019

W.P. (MD) .No.19671 of 2019

13.09.2019

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