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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2020

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 29356 of 2019

And

W.M.P.No. 29171 of 2019

D.Selvam

.. Petitioner

..Vs..

1. The Superintendent of Police
District Police Office, Nethimedu
Salem - 636 002.
2. The Deputy Superintendent of Police
Omalur Police Sub Division
Omalur
Salem District.
3. The Inspector of Police
Tharamangalam Police Station
Tharamangalam
Salem District.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents and their subordinates from interfering with the peaceful and lawful activities of the petitioner's club viz., Mangalam sports & Recreation Club, Tharamangalam, Salem District, in the light of the order passed by this Court in W.P.No. 29444 of 2018 dated 22.11.2018.

For Petitioner : Mr. M.R.Jothimanian

For Respondents : Mr. Inbanathan
Additional Government Pleader

O R D E R

Heard Mr. M.R.Jothimanian, learned Counsel for the Petitioner and Mr.Inbanathan, learned Additional Government Pleader, appearing for the Respondents and also perused the



materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition has been filed to forbear the respondents forbearing the respondents and their subordinates from interfering with the peaceful and lawful activities of the petitioner's club viz., Mangalam sports & Recreation Club, Tharamangalam, Salem District, in the light of the order passed by this Court in W.P.No. 29444 of 2018 dated 22.11.2018. In support of the aforesaid relief claimed, reliance was placed by the Learned Counsel for the Petitioner on the decision of this Court in M/s. Masti Health and Beauty Private Limited -vs- Commissioner of Police, Chennai (order dated 09.12.2014 in W.P. No. 24629 of 2014 etc., batch). In that decision, this Court has held as follows:-

"67. In the light of the above, all the Writ Petitions are disposed of to the following effect:-

(i) The Respondents shall not, as a matter of routine and without any basis, conduct any raids and interfere with the business carried on by the Petitioners.

(ii) 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 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."

3. Learned Additional Government Pleader appearing for the Respondents submits that the Government of Tamil Nadu accepting the suggestions made by this Court in the aforesaid decision,



has made necessary amendments to the Chennai City Municipal Corporation Act, 1919, and in the enactments relating to other Urban Local Bodies, which have come into force with effect from 01.02.2019.

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4. In view of the aforesaid submissions made by the learned counsel for both sides, the following directions are issued:-

(i) the Petitioner is entitled to carry on lawful business of Mangalam sports & Recreation Club, Tharamangalam, Salem District, within the premises and normally there would not be any interference from the police authorities so long as the activities are not in violation of the provisions of any law;

(ii) if the Police Authorities have specific information or reasonable doubt that the activities carried on in the Mangalam sports & Recreation Club, Tharamangalam, Salem District, of the Petitioner are in violation of law or relate to unlawful activities, would be open to them, after recording reasons in the General Diary maintained in the Police Station, to proceed to enter the premises of the Petitioner, conduct investigation, interrogate those who are involved in such activities and take appropriate action in accordance with law;

(iii) the Police Authorities shall not otherwise unnecessarily disturb the activities of club of the Petitioner under the guise of inspection;

(iv) while exercising the powers conferred on the police authorities, they shall strictly follow the procedure prescribed by law;

(v) it is always open to the Petitioner to challenge the action taken by the Police, if it is not in accordance with law;

(vi) the Petitioner shall comply with the requirements of the police authorities to install CCTV cameras at the locations earmarked and shall furnish the footages to the police authorities, whenever required; and

(vii) it shall be incumbent upon the Petitioner to ensure that all licences required under various enactments applicable to the conduct of business of Mangalam sports & Recreation Club, Tharamangalam, Salem District, of the Petitioner, are in force in order to avail the benefit of this order and in the event of the same getting expired by lapse of time, suspended or cancelled by the concerned authorities, the Petitioner shall not be entitled to rely on this order to avoid the consequences arising therefrom.



5. The Writ Petition is disposed on the aforesaid terms. No order is necessary. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Superintendent of Police
District Police Office, Nethimedu
Salem - 636 002.
2. The Deputy Superintendent of Police
Omalur Police Sub Division
Omalur
Salem District.
3. The Inspector of Police
Tharamangalam Police Station
Tharamangalam
Salem District.

+lcc to Mr. M.R.Jothimanian, Advocate sr.3846
+lcc to Government Pleader SR.NO. 3945

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nr 21/01/2020