



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 11.02.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WP.(MD)No.2376 of 2020

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Club India Resorts and Metro Hotels Private Limited,
Rep. by its Director,
Bodhee Satvikanath Raju,
S/o.Raju,
Poomparai Village,
Kodaikanal Taluk,
Dindigul District.

... Petitioner

Vs.

- 1.The Superintendent of Police,
Dindigul District.
- 2.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.
- 3.The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal, Dindigul District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the third respondent in S1PS/03/GENL/2020, dated 29.01.2020 and quash the same as illegal and consequently forebear the respondents from in any way interfering in the petitioners right to hold music, arts and food festival in the petitioner resort, scheduled to be held on 13.02.2020 to 16.02.2020.

For Petitioner : Mr.T.Amjadkhan

For Respondents : Mrs.S.Bharathi

Government Advocate (Crl. side)

O R D E R

This writ petition has been filed to quash the proceedings in S1PS/03/GENL/2020, dated 29.01.2020, issued by the third respondent and direct the respondents from in any way interfering in the petitioners right to hold music, arts and food festival in the petitioner resort, scheduled to be held on 13.02.2020 to 16.02.2020.

2.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the

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respondents.

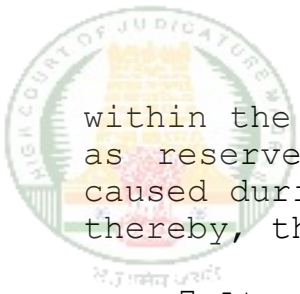
3.The case of the petitioner is that, it is a private limited company owning land to an extent of 45 acres in Poomparai and in the said property, a resort in the name and style of Club India Resorts had been established in the year 1992. The petitioner is holding necessary licenses. The petitioner resort also serves as a cultural center and is involved in the promotion of fine arts and culture. As a part of the same, the petitioner company had been hosting a Music, Art and Food Festival once or twice in a year. The said festival is only conducted with an object of promoting music and comity of cultures. The said event is also not open to the General public but a private function in which, only specific invitees not more than 1000 are permitted to participate. In this regard, the petitioner made a representation to the third respondent on 25.01.2020 to grant permission, but it was rejected. Hence, the petitioner has approached this Court by way of the present writ petition.

4.The learned counsel for the petitioner would submit that the earlier during the last year, the petitioner's prayer for conducting the cultural programme was rejected and the petitioner approached this Court by way of a writ petition in W.P.(MD)No.18863 of 2019 and this Court, by order dated 04.09.2019 set aside the impugned order therein and directed the petitioner to give a fresh representation and on such representation being made, the respondents were directed to consider the same. Pursuant to the order, the petitioner had conducted the programme. This year also the petitioner had approached the respondent police, however the respondents have rejected the same by the impugned order which is under challenge. He would further submit that the reason assigned by the third respondent for rejecting the permission is untenable and without any legal basis.

5.The 3rd respondent has filed a counter, wherein at paragraph No.7, it has been stated that Poomparai Village is under the Annamalai Tiger Reserve Sanctuary and conducting a cultural programme cause distress to the wild animals and if such parties are hosted in the reserve forest it will not be possible to give adequate police protection for a private night Music Festival and Food Festival, which is hosted for ecstasy and pleasure of 1000 peoples.

6.The learned Government Advocate would submit that the third respondent apprehending law and order problem and also apprehending that the participants who come from various States, would be using narcotics and other banned items during the party, has rejected the application. She would further submit that very recently in the guise of a cultural programme rave party was conducted illegally in Kodaikanal, where the participants were found to be using narcotic and banned substances and cases were registered against them. She

<https://www.mca21.com/insights/insights-on-the-law/>



within the Annamalai Tiger Reserve and it has been recently declared as reserve forest and there is an apprehension that noise level caused during such party will cause distress to the wild animals and thereby, the third respondent rejected the same.

7. At this juncture, the learned counsel for the petitioner would submit that the impugned order of rejection does not speak anything about noise pollution or the area being declared as a Reserve Sanctuary and causing distress to the animals. Further the case of the petitioner cannot be equated with that of the other persons who conducted party illegally without obtaining permission from the respondents. The petitioner resort is spread 45 acres of land and the petitioner is running it after obtaining proper and necessary licenses from the concerned statutory authorities and that the petitioner is also prepared to abide by any reasonable conditions that may be imposed by the respondent police to conduct the programme. He would further submit that the petitioner will also give an undertaking and ensure that no narcotic drugs and psychotropic substances will be used within the premises and that noise level will be restricted within permissible limits without causing any distress to the animals or public in the locality.

8. In view of the above, following the earlier order dated 04.09.2019 made in W.P(MD)No.18863 of 2019, the impugned proceedings of the third respondent in SI/PS/03/GENL/2020, dated 29.01.2020 is hereby set aside. The petitioner is directed to submit a fresh representation before the third respondent forthwith and on receipt of such representation along with necessary undertakings, the respondents shall permit the petitioner to conduct the cultural programme by imposing the following conditions:

1) the cultural programme shall not be conducted beyond the prescribed time limit.

2) the petitioner shall ensure that no liquor, intoxicant substance, narcotic, psychotropic drugs and banned/illegal substances will be used by the performers or the participants in the cultural programme.

3) the noise levels should be restricted within permissible limits and the petitioner shall ensure that it will not cause disturbance to the persons living in the locality and distress to the animals.

4) the petitioner shall give the list/number of persons participating in the cultural programme.

5) in the event of erecting a stage necessary stability certificate will be obtained from the concerned authorities.

6) the petitioner shall ensure the safety of the persons participating in the cultural event.

7) Vulgar or obscenity shall not be promoted in the guise of a cultural event.



8) if there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;

9) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;

10) if any untoward incident takes place, the organizers of the programme be made responsible for the same

11)Organizers shall have to obtain all other required permission from the authorities concerned

12)The respondents shall impose anyother condition in accordance with the ground situation.

9. The petitioner is also directed to ensure that the conditions are strictly complied with and also to ensure that no law and order problem is created in the course of conducting the programme.

10. This writ petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sjj

To

1.The Superintendent of Police,
Dindigul District.

2.The Deputy Superintendent of Police,
Kodaikanal, Dindigul District.

3.The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal, Dindigul District.

+1 CC to M/s.J.M.HASSANUL BAZARI, Advocate (SR-5736[F] dated
11/02/2020)

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KK/SAR/12.02.2020/4P-5C/