



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.14137 of 2020

K.K.Recreation Club - Kamayakoundan Patti
Represented through its Secretary,
C.A.Murugan.

... Petitioner

Vs.

1.The Superintendant of Police,
Theni District, Theni.

2.The Inspector of Police,
Ramakoundan Patti Police Station,
Uthamapalayam,
Theni District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to consider petitioner's representation dated 15.09.2020 and directing the respondents not to disturb the petitioner "K.K.Recreation Club-Kamayakoundan Patti" frequently under the guise of inspection without there being any reliable information as to the illegal activities of the club or its members or its guests.

For Petitioner : Mr.J.William Christopher
For Respondents : Mr.R.Srinivasan,
Government Advocate

O R D E R

Heard the learned counsel on either side.

2.The petitioner is a recreation club. The learned Government Advocate opposes the writ prayer by pointing out that the writ petition has been prematurely filed . According to him, the club is yet to be opened.

3.The petitioner's club has been duly licensed. The petitioner states that its members want to amuse themselves and they do not have any intention to commit act of illegality. According to him, there is no gambling. He would state that the members of the petitioner's club are only playing some card games without stakes. The petitioner is ready abide by any condition that may be stipulated by the second respondent. The petitioner will adhere to the social distancing norms and any other advisory that may be issued by the second respondent. The undertaking given by the petitioner through their counsel is recorded.



4.A learned Judge of this Court in a similar writ petition had disposed of the writ petition in set of directions in W.P.(MD) No.21025 of 2019, dated 30.09.2019.

5.In terms of the said order, I dispose of the writ petition in the following terms:-

" (I) The petitioner Club shall not indulge in any illegal activity under the guise of playing games;

(II) If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner's Club, inspect and take further action as per law;

(III) The respondent police are also advised not to disturb the petitioners Club frequently under the guise of inspection, as it would disturb the peace harmony of the petitioner Club;

(IV) 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;

(V) 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;

(VI) 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;

(VII) 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 Gambling Act, 1867;

(VIII) 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;

(IX) 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



order of suspension orally, they are not entitled to pass such oral orders; and

(X) Before passing orders for the purpose of closure of the Club, in exercise of the powers conferred on the authorities, they should follow the principles 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. No costs."

Sd/-

Assistant Registrar (Writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Superintendent of Police,
Theni District,
Theni.
- 2.The Inspector of Police,
Ramakoundan Patti Police Station,
Uthamapalayam,
Theni District.

+1 CC to M/s.JJ. WILLIAM CHRISTOPHER, Advocate (SR-19991[F] dated 14/10/2020)

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AP (28.10.2020) 3P 4C