



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2020

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.16913 of 2016

K.Murugan

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Law and Order,
K.Pudur,
Madurai-625 007.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to forbearing the 2nd Respondent from interfering in the continuation of "Deva Recreation Public Welfare Association" (SL.No.66 of 2016) which is functioning at No.6, Sivanandi Konar Street, 5th Street, K.Pudur, Madurai.

For Petitioner : Mr.E.Somasundaram

For Respondents: Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

ORDER

This Writ Petition has been filed seeking a direction to direct the second respondent not to interfere with the day today affairs of the petitioners club namely "Deva Recreation Public Welfare Association" (SL.No.66 of 2016) which is functioning at No.6, Sivanandi Konar Street, 5th Street, K.Pudur, Madurai.

2. The grievance of the petitioner is that, the club was registered under the Tamil Nadu Societies Registration Act, 1975. The petitioner is running the Club to promote welfare of the downtrodden people life and it is not involving in any illegal activity. According to the petitioner, the respondent Police are interfering and disturbing the lawful activities of the Club, without following any provisions of law and preventing them from doing their activities peacefully. Hence, the present Writ Petition has been filed.



3. The learned counsel appearing for the petitioner would contend that the Club was registered under the Tamil Nadu Societies Registration Act, 1975, and the Clubs is being run for welfare of the downtrodden people life. The petitioner's Clubs was entitled to conduct lawful activities in its premises and also could conduct indoor games. The respondent Police have no power to deny the petitioner's Clubs to conduct lawful activities.

4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondents would submit that the petitioner's club was registered under the Tamil Nadu Societies Registration Act, 1975. They are conducting various programmes to entertain their members. Based on some reliable information, the respondent Police made a search in the respective Clubs. Apart from that, the petitioner has not obtained licence as per Section 3 of the Tamil Nadu Places of Public Resort Act, 1888. The learned Additional Public Prosecutor relied upon the order passed by this Court in ***W.P. (MD).Nos.5560 of 2018, etc., batch cases-[Mass Recreation Club-Shengottah represented by its Secretary Vs. The Superintendent of Police, Tirunelveli District, Tirunelveli and others]***, dated 13.07.2018, wherein, this Court held that the petitioner should necessarily get license from the Authority concerned under Section 3 of the Tamil Nadu Places of Public Resort Act, 1888. The above order has been confirmed by a Division Bench of this Court in ***W.A. (MD).No.1017 of 2018, dated 31.07.2018***. The relevant portion of the judgment reads as follows:-

"3.We have recorded the reason for dismissal of the Writ Petition. We find absolutely no reason to differ. Informing that appellant has to obtaining necessary permission under Tamil Nadu Places of Public Resort Act, 1888 and on doing so, it would be open for the appellant Club to indulge in Rummy Card games and other recreation activities, other than those that what offend the Tamil Nadu Gambling Act, this Writ Appeal stands dismissed."

5. That apart, the learned Government Advocate (Crl.Side) appearing for the respondents has relied upon Section 34 of the Chennai City Police Act, 1888. Section 34 of the above said Act reads as follows:-

"34.Places of public resort to be licensed-(1)No enclosed place or building having an area of five hundred square feet or upwards shall be used for public entertainment or resort without a licence from the Commissioner.

Provided that nothing contained in this Sub-Section shall apply to any Church, Temple, Mosque, or other place of worship.



(2)The Commissioner may, at the time of grant of a licence under Sub-Section (1) or at any time during the currency of any such licence, require any person, other than a local authority, applying for such licence or the holder of such licence, as the case may be, to deposit with the Commissioner in cash or in Government promissory notes for such sum, as may be prescribed as security for the due observance of the conditions of licence.

(3)Where there is breach or non-observance of the conditions of the licence granted under Sub-Section (1) the Commissioner may forfeit the security so deposited to the Government.

(4)The forfeiture of the deposit shall not be a bar for proceeding against the holder of the licence under the provisions of Section 76."

6. I have considered the rival submissions and also perused the records carefully.

7. The main grievance of the petitioner is that, the petitioner is running the Club for the benefit of their members without violating any law, and they need not obtain any licence from any authority. But as per the Judgment relied upon by the learned Government Advocate(Crl.Side) appearing for the respondents, all the Clubs necessarily get license under the Tamil Nadu Places of Public Resorts Act, 1888, and which was also confirmed by the Division Bench of this Court.

8. Considering the above circumstances, without going into the merits of the case, I am inclined to issue a direction to the petitioner to approach the authority concerned, seeking for licence under Section 3 of the Tamil Nadu Places of Public Resort Act, 1888, as per the order passed by this Court in **W.P. (MD) .Nos.5560 of 2018, etc., batch cases, dated 13.07.2018** and, the petitioner is also directed to submit necessary application under Section 34 of the Madras City Police Act, 1888, before the competent authority, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such application, the competent authorities are directed to pass orders on the application, within a period of six weeks thereafter.

9. If the concerned authorities granted license to the petitioner, the third respondent police shall not interfere with the running to day to day activities of the club unless the petitioner's club involved in any illegal activities or members of the club causes disturbance to the general public.



10. This Writ Petition stands disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CS-I)

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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 Commissioner of Police,
Madurai City,
Madurai.

2.The Inspector of Police,
Law and Order,
K.Pudur,
Madurai-625 007.

W.P. (MD)No.16913 of 2016

24.11.2020

BK(CO)

NR (07/12/2020) 4P : 3C