

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED :21.01.2020

CORAM

THE HONOURABLE **MR.JUSTICE A.D.JAGADISH CHANDIRA**W.P.(MD)No.27027 of 2019

WEB COPY

The Secretary,
District Club,
(Reg .No.3 of 1934),
North High Grounds Road,
Palayamkottai,
Tirunelveli.

... Petitioner

Vs.

The Commissioner of Police,
Commissioner Office,
High Ground,
Palayamkottai,
Tirunelveli.

... Respondent

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to Na.Ka.No.G6/22069/484/2019 dated 21.11.2019 passed by the respondent herein and quash the same and consequently direct the respondent to accord permission to the members of petitioner's club to play 13 rummy cards without stake and also to forbear the respondent to conduct search inside the club without specific complaint.

For Petitioner : Mr.S.Meenakshi Sundaram
Senior Counsel
for M/s.T.Selvam

For Respondent : Mrs.S.Bharathi
Government Advocate (Crl. Side)

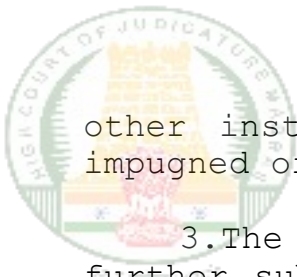
ORDER

This writ petition has been filed to set aside the impugned order passed by the respondent in Na.Ka.No.G6/22069/484/2019 dated 21.11.2019 and consequently to direct the respondent to accord permission to the members of petitioner's club to play 13 rummy cards without stake and also to forbear the respondent to conduct a search inside the club without specific complaint.

2.The learned counsel appearing for the petitioner would submit that the petitioner is the elected secretary of the District Club situated at No.2, North High Ground Road, Palayamkottai, Tirunelveli District and that the said club is the only oldest club in



Tirunelveli District and the same was duly registered in the year 1934, under the Societies Registration Act. He would further submit that the members of the club are reputed persons and most of them are former bureaucrats, retired judges, Government officials and some of them are business entrepreneurs and professionals in various fields and also the District Collector, District Judge, the Commissioner of Police and the superintendent of Police are the ex-officio member of the society. He would further submit that the object of the petitioner's club is to promote the social life and intellectual advancement among its members and also to provide facilities for indoor and outdoor games which includes Tennis, Shuttle, Billiards, Table Tennis, Carum, Gym and 13 cards Rummy without stake. Further, the club is also having infrastructure facilities for library, reading rooms and even since its inception, the members are extensively using the library. He would further submit that the bye-law of the club relating to disqualification of members is very rigid in its nature and in the event, if a member gets convicted in any criminal offence, he will be expelled and prevented from reentering the club. He would further submit that the petitioner/club not allowed any of the members, who indulged in criminal activities within the premises. He would further submit that the General Body Meeting was convened on 27.04.2019 and New Managing Committee has been elected and the same has taken over the administration of the club. He would further submit that the club has taken a decision, to include playing of 13 rummy cards without stake as one among the indoor games and the majority of the members have showed their interest in playing the rummy as the same involves certain skill since it would be a good event of time pass for the elders in the club. Thereby, in order to get appropriate permission from the respondent, a detailed representation, dated 03.07.2019 has been addressed to the respondent to grant permission. Since there was no response, the writ petition in W.P.(MD).No.1834 of 2019 was earlier filed by the petitioner seeking to dispose of the representation and this Court by order, dated 26.08.2019, directed the respondent to act upon the petitioner's representation. On 21.11.2019, the respondent has rejected the petitioner's request and the impugned order has been passed in Na.Ka.No.G6/22069/484/2019 refusing permission to allow playing 13 rummy cards without stakes. The learned senior counsel appearing for the petitioner would submit that in the impugned order of refusal has been passed stating that the members are already having various other sports activities and that there are two rival factious in the club after the election in 2017 and there is a likelihood of law and order problem. Further, it has been stated that schools and hospitals are situated nearby and if the members are permitted to play 13 card rummy it will cause disturbance to students and the patients. The reasons assigned in the impugned order is without any basis and without application of mind. The members play card in the card room and the schools and hospitals situated far away. Further after the recent elections, there is no group rivalry and the resolution to play 13 card rummy has been unanimously passed. The members of the club are all Senior Citizens and there is no chance of causing trouble to the schools or



other institutions. The reasons given by the respondent in the impugned order, is without any logic or any reasoning.

3.The learned counsel appearing for the petitioner would further submit that this Court earlier in the case of **The Director General of Police, state of Tamil Nadu Vs. Mahalakshmi Cultural Association** reported in **2012 (2) CTC 484** held that playing rummy cards without stake would not amount to gambling and subsequently, this Court in W.P.No.22380 of 2017, dated 13.10.2017 and in W.P.(MD).No.16616 of 2017 dated 31.01.2018 had granted permission to play 13 cards rummy without stake, subject to imposition of certain conditions. Playing 13 card rummy does not amount to gambling the respondent cannot reject granting permission on mere surmises that the members will indulge in gambling.

4.The respondent has filed a counter in which it has been stated that the club is situated near hospitals and educational institutions. Further, it has been stated that if the request to permit to play 13 cards rummy is permitted, it would become a gambling den for the business men, professionals and big shots of various fields, who are made members in the club and thereby they have rejected the petition. The respondent had rejected granting permission stating the reasons as above.

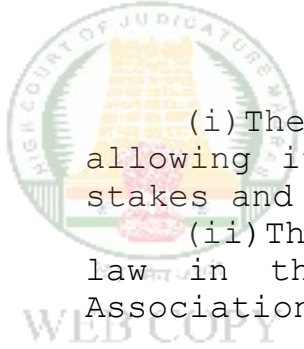
5.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that there are two rival groups in the club and that the club is situated near schools and hospitals and that if the members are allowed to play 13 cards it will create law and order problem in the area. Further, there is also an apprehension that in the guise of playing 13 cards rummy, the members would resort to gambling. Based on the above grounds the respondent had rejected granting permission to play 13 cards rummy.

6.At this juncture, the learned counsel appearing for the petitioner would submit that if at all the respondent police receive any information that the members of the petitioner/club are indulging any illegal activity, it is open to the respondent police to take appropriate action in accordance with law. The respondent cannot on surmise and conjectures reject the petition without valid reason.

7.Heard both sides.

8.Perused the materials available on record

9.This Court is of the opinion that the reasoning in the impugned order is without application of mind. Therefore, the impugned order passed by the respondent in Na.Ka.No.G6/22069/484/2019 dated 21.11.2019 is set aside and the members of the club are allowed to play 13 cards rummy without stake with the following conditions:



(i) The petitioner club shall not indulge in any activity by allowing its members or the guests to play rummy (13 cards) with stakes and make profit or gain.

(ii) The police are entitled to take action in accordance with law in the event any illegal activity is carried on in the Association premises.

(iii) The Police shall not disturb the petitioner / club frequently under the guise of inspection without there being any reliable information or specific complaint as to the illegal activities of the petitioner / club or its members or the guests.

10. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vsg

To

The Commissioner of Police,
Commissioner Office,
High Ground,
Palayamkottai,
Tirunelveli.

+1 CC to Mr.A.ARUL JENIFER, Advocate (SR-2457[F] dated 22/01/2020)

W.P. (MD) No. 27027 of 2019
21.01.2020

VB(14.02.2020) 4P 3C