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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.16506 of 2015
and
M.P.No.1 of 2015

A.Jayaprakash

... Petitioner

Vs.

- 1.The Secretary
Home Department,
Govt of Tamil Nadu,
Fort St George, Chennai-600002
- 2.The Collector of Chennai,
Singaravellar Maligai, Rajaji Salai,
Chennai-600001
- 3.The Director General of Police,
Kamarajar Salai, Mylapore.
Chennai -600004
- 4.The Commissioner of Police,
Vepery, Chennai-600007
- 5.The Deputy Commissioner of Police,
Triplicane Range, Vepery, Chennai -600007.
- 6.The Assistant Commissioner of Police,
Triplicane Range, Chennai-600005.
- 7.The Inspector of Police,
D.1. Triplicane Police Station
Chennai-600 005.
- 8.The Commissioner
Corporation of Chennai
Ripon building, Chennai - 600003

9.S.Ramasamy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the Respondents 1 to 8 to consider the petitioner



representation dated 05/03/2015 and to take necessary action against the 9th respondent to cancel the license and to stop renewal of the license of Pals Restaurant at No.42, Anna Salai, G.G.Complex, Chennai-600 002 and to penalized the 9th respondent for his illegal activities and violations of rules and regulations and for closure of the Pals Restaurant permanently.

For Petitioner : Mr.D.Udaya Suriyan
For Mr.N.Chinnaraj

For R1 to R7 : Mr.M.Rajendiran
Additional Government Pleader

For R8 : Mrs.P.T.Ramadevi

For R9 : Mr.N.Naganathan

O R D E R

The writ on hand has been instituted to issue a writ of Mandamus to direct the respondents 1 to 8 to consider the petitioner representation dated 05/03/2015 and to take necessary action against the 9th respondent to cancel the license and to stop renewal of the license of Pals Restaurant at No.42, Anna Salai, G.G.Complex, Chennai-600 002 and to penalize the 9th respondent for his illegal activities and violations of rules and regulations and for closure of the Pals Restaurant permanently.

2. The petitioner states that he went to visit Pals Restaurant to watch Cultural dances as he came to understand that Pals Restaurant at No.42, Anna Salai, G.G.Complex, Chennai, which belongs to the 9th respondent. An entry fee of Rs.400/- was collected from the petitioner for the show but no receipt for the money received was issued by the management of Pals Restaurant. The obscene dance show was conducted from night 7:30pm to next day 1:00am and daily 3 to 4 shows were conducted and about 25 to 30 young girls were dancing in half nude in live music with heavy speakers and mostly the girls dancing in the show are between 16 to 35 age groups and most girls were seems to be Muslim girls.

3. During the obscene dances, the spectators were throwing 500 and 1000 rupee notes on the dancing girls and during the show itself the dancing girls and the customers were exchanging their phone numbers. All these things were happening in the public place. Apart from obscene dance drugs and other prohibited items were also sold during the show in the Pals Restaurant. Adding tune to the sales of drugs and prohibited



items, there is a TASMAC wine shop in the ground floor of the building and after 10pm after close down of TASMAC shop, liquor of all types, varieties and brand were sold in Pals Restaurant in black market for huge price and it is to note that Pals Restaurant has no license or NOC to sell liquor. Though it is named as Restaurant, no food items were sold in the restaurant and they are only conducting obscene dances in the name of cultural dances.

4. The petitioner states that the owner of the Pals Restaurant Mr.S.Ramaswamy/9th respondent, seems to be a very highly influenced person with men, political and police power. During the obscene shows ten muscle men seems to be like Goondas or Rowdies were guarding the Pals Restaurant and their duty is to threaten the customers, who were creating problem and beat them harshly and throw them out of the Restaurant. Likewise during the obscene dance show the spectators were throwing currency notes on the dancing girls and the spectators were also giving money to the dancing girls and they were also receiving the same, the money received in such a way was shared between the Restaurant and the dancing girls equally.

5. The petitioner states that the obscene dancing show also pave way for prostitution and after the show the dancing girls were indulged in prostitution and the Pals Restaurant act as a connector between the customer and the dancing girls. The prostitution organized by the Pals Restaurant also pave way for clashes between the customers of the Pals Restaurant for the girls who are dancing in the show. The petitioner further status that every month many cases are being registered on the clash between the customers of the Pals Restaurant for the girls in the Triplicane Police Station.

6. It is further contended that these illegal activities are very well known to the police officials who were well aware of the illegal act of the Pals Restaurant but they are not taking any action against the owner of the Pals Restaurant or its employees because the local Police officials were receiving money regularly (Mamool) from the owner of the Pals Restaurant. Even the local Police officials are refusing to receive complaint against the Pals Restaurant and in all together the local Police officials were keen only in protecting the 9th respondent.

7. The Hon'ble High Court by its order dated 20.02.2014 in a writ petition had refused to give permission for dance program on the public place throughout Tamil Nadu as it is against the provisions of Indecent Representation of Women (Prohibition Act).



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8. The petitioner obtained the copy of the license granted to the Pals Restaurant by the 8th respondent/Corporation of Chennai under the Right to Information Act and the petitioner came to know that the license was granted only for running restaurant business but the 9th respondent is not carrying restaurant business in the premises but running a club and conducting obscene dances, selling liquor, organizing prostitution and indecently representing the girls who were dancing in the show. Knowing the fact that the petitioner and some others have obtained the informations as well as copies of the license, the 9th respondent Mr.S.Ramaswamy proprietor of Pals Restaurant filed a writ petition in W.P.No.328 of 2014 for getting license and conducting cultural dances but the same was objected by the Police Department.

9. While passing interim orders this Court had strictly directed the 9th respondent not to conduct any obscene dance in the restaurant instead of cultural dance and given liberty to the 4th respondent to take actions if obscene dance is conducted in the restaurant. But in violation of the interim order passed by this Court, the 9th respondent still conducting obscene dance show in the restaurant. Under these circumstances the petitioner was constrained to move the present writ petition for grant of relief as such sought for in the present writ petition.

10. The learned counsel appearing on behalf of the petitioner made a submission that the Police conducted inspection and found such illegal activities in the Restaurant. The Police authorities are very much aware of these facts and in view of the interim order, the 9th respondent has continued to conduct such obscene dances in the Restaurant and the police was unable to initiate appropriate action in view of the interim order granted by this Court.

11. The learned Additional Government Pleader also reiterated that in view of the interim order the 9th respondent has misused the interim order and was conducting the illegal dance program in the Restaurant. On one occasion the 9th respondent in order to threaten the police officials filed a contempt petition stating that they are unnecessarily interfering with the activities and the said contempt petition was subsequently closed with certain observations and the interim order dated 11.04.2014 reads as follows:

"13. Having regard to the fact that the application for renewal has been filed by the petitioner on 12.11.2012 with the second respondent and that the show cause notice issued by the second respondent is challenged in the writ petition, following the earlier orders passed by this Court in WP No. 10029 of 2010 dated 05.05.2010 and the order



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dated 20.12.2013 in WP No.34648 of 2013 and MP No. 1 of 2013 mentioned supra and the order passed by the Division Bench of this Court in respect of the very same petitioner through its erstwhile license holder, there will be an interim injunction as prayed for till the disposal of the writ petition. It is needless to mention that the petitioner shall not conduct any obscene dances in the restaurant and conduct the Indian Cultural Dance Programme with strict discipline, dignity and decency. In the event of any violation of the aforesaid conditions and if the petitioner allows performance of any obscene dances, the second respondent officials are at liberty to take action. It is made clear that this order will not prevent the respondents from taking any action against the petitioner for violation of licence conditions or for any wrong doing."

12. This Court in unambiguous terms clarified that the petitioner shall not conduct any obscene dances in the restaurant. Further it is stated that the second respondent Police officials are at liberty to take action when the High Court in clear terms held that no obscene dances should be conducted and the police authorities are empowered to conduct inspections and in the event of any illegality actions are to be taken. Thus, it is a lapse on the part of the police authorities during the relevant point of time to register cases inspite of the fact that the interim order passed by this Court unambiguously clarifies that there is no restriction or obstruction for the police to conduct inspection and initiate appropriate action by following the procedures as contemplated under law.

13. May that as it be. The writ petition was filed in the year 2015 and in order to find out the present status, this Court directed the learned Additional Government Pleader to get report from the police officials to deal with the allegations raised against the 9th respondent by the petitioner.

14. Mr.S.Mohan Raj, Inspector of Police, D1 Triplicane Police Station, Law and Order, filed a report stating that even on 12.05.2018 through social media propagandas were made that illegal obscene dances are being performed at Pals Restaurant, Anna Salai, Chennai. In view of the information in the social media, the police officials conducted an inspection and found that 17 dancing girls and artists and other employees were preparing for conducting dances and the police authorities examined the CCTV cameras and found that obscene dances were being conducted in the said restaurant and the currency notes were also thrown by the customers who were attending dance



programmes. The allegations set out by the petitioner in the writ petition were established even in the year 2018. Immediately, the police officials registered a case on 12.05.2018 in D1 PS Cr.No.303/2018 under Sections 294(b), 509, 109 IPC and 34, 37, 40 of CP Act and the investigations are in progress. Based on the inspection conducted in the year 2018, the 9th respondent Ramasamy filed a contempt petition and the contempt petition was defended by the authorities and finally, it was closed. Thereafter, the 9th respondent filed an application for renewal of Public resort license and the Commissioner of Police conducted an enquiry. The Commissioner of Police considering the facts and circumstances rejected the application for renewal of public resort license for the year 2021 and in this regard, an order was passed by the Commissioner of Police in Proceedings RC.No.E3(1)/296/105398/ 2020 dated 18.06.2021.

15. The learned Additional Government Pleader based on the report made a submission that during the pendency of the criminal cases registered on 12.05.2018, the 9th respondent continued to conduct such obscene dances in the said Pals Restaurant. The Assistant Commissioner of Police conducted an inspection in the said Pals Restaurant on 11.09.2021 and on that day also, the Assistant Commissioner of Police along with his team found that such obscene dances were conducted by the Management of the Pals Restaurant.

16. Interestingly, the said Pals Restaurant is situated very close to the Triplicane Police Station. Therefore, the statement of the petitioner that the police officials were very much aware of such obscene dances is to be considered. In certain circumstances, the Courts are bound to draw factual inferences and this Court is of an opinion that several inspections were conducted by the police and during those inspections, they have found that illegal activities are going on in the said Pals Restaurant and cases are also registered. However, the learned counsel for the petitioner reiterated that only two cases are registered but every day the said illegal activities are going on and the police officials have knowledge about all these activities.

17. The learned Additional Government Pleader, in reply contended that the 9th respondent got an interim order even after conducting an inspection and registering of a case, he filed a contempt petition and thereby, restrained the police from conducting inspection on several occasions. Thus, the contention of the petitioner that the police authorities have not taken any action is incorrect.



18. This Court is of the considered opinion that the tactical approach of the litigants for the purpose of committing such illegal activities at no circumstances be encouraged by the Courts. The offenders are approaching the Court with some idea and to achieve their goals through means and to ensure their illegal activities are carried on without any hindrance. The case on hand is a classic case where the petitioner filed a writ petition for initiation of action against the 9th respondent. Even before that, the 9th respondent filed a writ petition in W.P.No.328 of 2014 challenging the show cause notice issued by the Commissioner of Police for the purpose of declining the request of the 9th respondent for renewal of license. The said writ petition was also pending during the relevant point of time. But the writ petition filed by the 9th respondent Ramasamy is concerned, the Commissioner of Police has taken a final decision and rejected the application submitted by the 9th respondent for renewal of public resort license in proceedings dated 18.06.2021 and therefore, the said writ petition has become infructuous.

19. The report of the Inspector of Police further reveals that based on the inspection conducted by the Assistant Commissioner of Police on 11.09.2021, a criminal case was registered in Cr.No.747/2021 under section 369 IPC r/w. 37 CP Act and Sect 3 of Epidemic Decease Act and a report was submitted to the Corporation authorities to close down the Pals Restaurant permanently as the illegal activities are continuously going on, on day-to-day basis and the police authorities also formed an opinion that the restaurant may be closed.

20. This Court is of the considered opinion that the fact remains that the 9th respondent is not running a regular restaurant and not doing the restaurant business in the said area. TASMAC shop is also situated in the said complex. Adjacent to the TASMAC shop, the Pals Restaurant is continuing all obscene dances and supplying liquor and committing other illegalities. The police authorities have already registered criminal cases, one in the year 2018 and recently on 11.09.2021. The police authorities have submitted a report to the Corporation officials to close down the restaurant permanently. The allegations are undoubtedly serious affecting the public order and it causes greater nuisance to the public at large. When such illegalities are allowed to continue for continuous period, no doubt the same would cause greater infringement of rights to the citizen to have peaceful atmosphere in that locality. Noise pollutions are also created. While performing the obscene dances, loud speakers are used in violation of the noise pollution Rules and it creates lost of issues in that locality.



21. The petitioner in his affidavit has narrated the entire facts and circumstances and the learned counsel for the 9th respondent though contended that the 9th respondent has not continuing any such illegal activities, there is no substance to consider such arguments as it is a general defense set out by the 9th respondent for the purpose of defending the writ petition.

22. The Inspector of Police who is present before this Court, in clear terms informed that illegal activities are going on for several years and the police authorities are unable to initiate effective steps against the 9th respondent in view of various factors and including the interim order granted by this Court as the interim order has been wrongly interpreted by the 9th respondent and utilized for the purpose of threatening the police officials for conducting inspections in the restaurant premises.

23. There is a growing trend of filing writ petition by stating that the petitioner is a law abiding citizen and by getting interim order, they are attempting to continue the illegal activities. High Court in clear terms in the present case clarified that inspections are to be conducted and initiate all appropriate actions if any illegality is identified. However, the miscreants cleverly conduct the programme in such a manner so as to ensure that the cameras were switched off or no evidences are taken by the police authorities or sometimes with the active or passive collusion of the authorities. All these factors are to be considered by the Court while dealing with such anti social programmes in the public places.

24. In view of the facts and circumstances, this Court is of a concrete opinion that the 9th respondent has committed an act of illegality by conducting obscene dances and further committed various irregularities with the assistance of the anti social elements, which is causing greater nuisance and hindrance to the people of that locality and even the jurisdictional police finds it difficult to handle the 9th respondent and to prevent such illegal activities in the premises of the 9th respondent.

25. The learned counsel for the 9th respondent reiterated by stating that the 9th respondent in his restaurant is conducting only lawful activities and further performing Indian dances and has not conducting any obscene dances and he is strictly following the law as the 9th respondent is a law abiding citizen. However, perusal of the entire facts and circumstances and sequence of events, this Court is of an opinion that such general defence made by the 9th respondent for the purpose of defending the case cannot be trusted upon and the police



officials on many occasions conducted inspections and in two occasions registered criminal cases and even now, the police authorities filed a report stating that such illegal activities are going on for several years.

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26. This being the facts and circumstances established with reference to the sequence of events, this Court is inclined to pass the following order:

(1) The respondents 4 to 8 [the Commissioner of Police, the Deputy Commissioner of Police, the Assistant Commissioner of Police, Triplicane Range, the Inspector of Police, D1 Triplicane Police Station and the Commissioner, Corporation of Chennai] are directed to seal the premises of Pals Restaurant functioning at No.42, GG Complex, Anna Salai, Chennai-2 within 24 hours from the date of receipt of a copy of this order and conduct investigation in respect of cases already registered and initiate all further proceedings regarding any other illegality or violations and proceed in accordance with law.

(2) The 8th respondent, Commissioner, Corporation of Chennai is directed to cancel the license already granted in favour the 9th respondent, Proprietor of Pals Restaurant/Pals Restaurant immediately.

(3) The respondents 3 and 4 are directed to issue necessary instructions to all the subordinate Police officials across the State of Tamil Nadu to conduct frequent inspections and identify the clubs, restaurants, Associations, etc. and its activities and in the event of conduct of any obscene dances, illegal activities or otherwise, initiate all appropriate actions including cancellation of license, permits, etc. and prosecute the offenders by following the procedures as contemplated under law.

27. With these directions, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Cse/Jeni



To

- 1.The Secretary
Home Department,
Govt of Tamil Nadu, Fort St George,
Chennai-600002
- 2.The Collector of Chennai,
Singaravellar Maligai, Rajaji Salai, Chennai-600001
- 3.The Director General of Police,
Kamarajar Salai, Mylapore. Chennai -600004
- 4.The Commissioner of Police,
Vepery, Chennai-600007
- 5.The Deputy Commissioner of Police,
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- 6.The Assistant Commissioner of Police,
Triplicane Range, Chennai-600005.
- 7.The Inspector of Police,
D.1. Triplicane Police Station, Chennai-600 005.
- 8.The Commissioner
Corporation of Chennai, Ripon building,
Chennai - 600003.

+2cc to Mr.N.Naganathan, Advocate, S.R.No.66962
+1cc to Mr.P.T.Ramadevi, Advocate, S.R.No.66847
+1cc to Mr.N.Chinnaraj, Advocate, S.R.No.66951

W.P.No.16506 of 2015

VBM(CO)
CB(15/12/2021)