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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.42735 of 2016

and

W.M.P.No.36664 of 2016

Pandian Recreation Club,
Rep.by its Secretary,
T.R.Srinivasan,
No.1-A, Syful Mulk Street,
Komaleeswaranpet,
Chennai - 600 002.

...Petitioner

Vs

- 1.The Commissioner of Police,
Greater Chennai,
Veppery, Chennai - 600 003.
 - 2.The Deputy Commissioner of Police,
Chintadripet, Chennai - 600 002.
 - 3.The Assistant Commissioner of Police,
Egmore, Chennai- 600 008.
 - 4.State rep.by
The Inspector of Police (L & O)
F.2, Egmore Police Station,
Egmore, Chennai - 600 008.
 - 5.The Inspector General of Registration,
100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalaipuram,
Chennai - 600 028.
- (R5 - Suo-motu impleaded as 5th respondent
in W.P.No.42735 of 2016 on 24.09.2021)

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents, their men, agents, subordinates or anybody acting on their behalf from in any manner disturbing, harassing or interfering with the lawful affairs of the petitioner's club



namely Pandian Recreation Club at No.1-A, Syful Mulk Street, Komaleeswaranpet, Chennai-600 002.

For Petitioner : Mr.M.Murali

For Respondents : Mr.K.M.D.Muhilan
Government Advocate

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O R D E R

The relief sought for in the present writ petition is to direct the respondents, their men, agents, subordinates or anybody acting on their behalf from in any manner disturbing, harassing or interfering with the lawful affairs of the petitioner's club namely Pandian Recreation Club at No.1-A, Syful Mulk Street, Komaleeswaranpet, Chennai-600 002.

2. The petitioner is Pandian Recreation Club. The petitioner club is registered under the Tamil Nadu Societies Registration Act, 1975 [hereinafter referred to as "Societies Registration Act"] vide Registration No.304/1991. The petitioner states that they are doing lawful activities for more than 25 years. The objective of the petitioner club is to establish a relationship of friendship. The petitioner states that they used to arrange dramas and shows for the benefit of its members and also arrange games like indoor and outdoor games, such as table tennis, carrom, billiards and chess, etc.,

3. The grievance of the writ petitioner is that the respondent/Police is frequently conducting inspection and disturbing and harassing the members of the petitioner's club.

4. The petitioners in their affidavit, categorically said that they are doing only lawful activities. Undoubtedly, such lawful activities alone are permitted. If the Police authorities gather some information about any illegal activities or otherwise, they are empowered to conduct inspection and initiate appropriate action under the provisions of the Penal laws. The power conferred on the Police authorities under the Code of Criminal Procedure cannot be taken by the Court in a writ proceeding in a routine manner. Only if the power is abused or misused, then alone, the Courts have to interfere and not otherwise.

5. It is the duty of the Police authorities to ensure that such Clubs are being run in a lawful manner and conducting lawful activities. There are allegations against such Clubs across the State that these Clubs are constituted and many of the Clubs are involving in illegal activities. When such informations are made available in the public domain, then the



Police authorities are bound to ensure that the Clubs are being run in a lawful manner and they are bound to collect informations periodically, so as to check the activities of these Clubs. No doubt, forming an Association is a fundamental right of the citizen. However, such a right is subject to restrictions and no fundamental right is absolute under the Indian Constitution. The exercise of individual rights of the citizen cannot injure the right of the fellow citizen bestowed upon by the Constitution. Thus, any illegal activities are carried on in any such Clubs, the Police authorities are empowered to conduct inspection and initiate appropriate action.

6. As far as the petitioner Club is concerned, the fourth respondent / Inspector of Police filed a counter statement, enumerating that already four Criminal cases are registered against the petitioner's Club and the details of those cases are stated in Paragraphs 10 and 11, which reads as under:

"10. I submit with regard to the averments in Para-8 of Writ that on 04.01.2014 one P. Prabakaran age 46, S/o R. Parthasarathy, No. 5/11, Velayudha Achari Street, Pudupet had lodged a complaint alleging that the Gaja who is keeping chicken stall has assaulted him with iron rod and bricks and threatened to go away from the land at No.13/29 Ellappan Street, Pudupet, Chennai.2 and the same was registered by the 4th Respondent in CSR.No 27/CSR/F2/2014 and enquired. Subsequently the De-facato complainant Tr.P.Prabakaran had approached this Hon'ble High Court, Madras in Crl. O.P.No. 2153/2014 dated 06.02.2014, and a case was registered in F2 P.S.Cr.No.85/2014 u/s 294(b), 324 and 506(i) IPC on 27.01.2014 as per the direction of this Hon'ble Court and investigated. The accused Gaja @ Gajapathy, who had given the address of Pandian Recreation Club at No.1, Saibul Mulk Street, Komaleeswaranpet, Chennai-02 as his residential address and filed anticipatory bail petition before the principal Session Judges, Chennai in Crl.M.P.No. 1353/2014 and he was enlarged on anticipatory bail on 31.01.2014 Further there was exchange of complaints of said Gaja @ Gajendran and Tmt.Krishnaveni, father and daughter respectively with regard to the right over the land at No. 13/29 Ellappan Street, Pudupet, Chennai-02 and that a case in F2 Cr.No 106/2014 u/s 145 Cr.P.C. Was registered and referred to the Tahsildar, Egmore-Nungambakkam Taluk for enquiry. Therefore, the allegation that the Respondent No.4 has entered inside the club and threatened the members who were playing at that time about 2.00 p.m. Is entirely wrong.



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11. I Submit with regard to the averments in Para-9 of writ petition, that on 20.02.2015 at 21.45 hrs. On getting information about gambling conducted by Gajapathy, the then Inspector has raided Pandian Recreation Club at No. 1, Sybul Mulk Street, Pudupet and found the said Gajapathy and 8 others were engaged in gambling with cash on betting. Hence, the Inspector rounded up the persons playing gambling, but the accused Gajapathy escaped, while 8 others were arrested and seized C.cash of Rs. 47,900/- and registered a case in Cr.No. 350/2015 u/s 45 & 46 C.P. Act and remanded the accused in to Judicial Custody. Further, A-1 Gajapathy was arrested and remanded in to judicial custody on 21.02.2015. The case is under investigation. Further the case in Crime No. 316/2016 is a case of preventive arrest u/s 41C1 (ii) Cr.P.C. In which 1) Akash, 2) Nirmal and 3) Mohamed Syedullah were arrested on 07.04.2016. Thereby the petitioner has falsel represented to this Hon'ble High Court to seek remedy in his favour. Further on 20.09.2016 at 12.45 hrs. on information, Pandian Recreation Club was raided and found the said Gaja @ Gajapathy along with four others have engaged in gambling. Hence all the five accused were arrested and a case in F2 P.S. Cr.No. 983/2016 u/s 45 & 46 CP Act was registered on 20.09.2016 at 13.30 hrs and the same is under investigation. But the petitioner has falsely represented that the respondent No.4 has lastly interfered with the club on 25.10.2016 and unnecessarily harassed the club members."

7. The fourth respondent is bound to pursue the criminal cases vigilantly, before the Court of Law. If such Clubs are involved in illegal activities, then all suitable actions are to be initiated under the provisions of the Registration Act for Cancellation of Registration.

8. The learned Government Advocate appearing on behalf of the respondents made a submission that after filing of the counter, another three cases are filed against the petitioners and the details are as under:

- (1) Crime No.111/2021 on 15.03.2021 under Section 160 I.P.C
- (2) Crime No.133/2021 on 31.03.2021 under Section 294 (b), 323, 448, 506 (ii) I.P.C
- (3) Crime No.488/2021 on 13.06.2021 under Section 143, 188, 269 I.P.C and 41 (b) of LP Act.

9. In view of the fact that several criminal cases have already been registered against the petitioner Club as well as



against the members of the Club, appropriate actions are to be initiated by the Registrar of Societies. Chapter IV of the Societies Registration Act, 1975 provides Inspections, Inquiry, Cancellation, Winding-Up and appeal.

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10. Registrar may on his own notion or on an application, is empowered to inquire into the affairs of the registered society under Section 36 of the Societies Registration Act. Section 37 stipulates 'Cancellation of Registration'. When an inquiry has been held under section 36 of registration, the registrar may, if he is satisfied—

(a) that the registered society has contravened any of the provisions of this Act or the rules made there- under; or

(b) that the registered society is insolvent, or must necessarily become so ; or

(c) that the business of any such registered society is conducted fraudulently or not in accordance with the bylaws or the objects specified in the memorandum filed with the Registrar under section 6, after giving in such manner, as he thinks fit, previous notice in writing to the registered society, specifying briefly the grounds of the proposed cancellation and after giving an opportunity to the registered society to show cause why the cancellation should not be made, cancel the registration of the registered society, and communicate the order of cancellation forthwith to the registered society by registered post.

11. Section 38 contemplates Cancellation of a Registration of Society and the said provision reads as under:

"(1) If it appears to the Registrar that any registered Registration society is carrying on any unlawful activity or allows unlawful activity to be carried on within any premises under the control of the society, the Registrar may hold an enquiry into the activities of such society, and in respect of every such enquiry, the Registrar shall have the same powers as are specified in sub-sections (6), (7) and (8) of section 36.

(2) If on an enquiry under sub-section (1), the Registrar is satisfied that any such society has been carrying on any unlawful activity or has allowed any unlawful activity to be carried on within any premises under the control of the society, he shall, after giving reasonable notice to the society to show cause why the registration of the society should not be cancelled and after considering the representations, if any, made on behalf of the society, by order cancel the registration of the society. The Registrar shall communicate the order of cancellation forthwith to the registered society."



12. The above provisions of the Tamil Nadu Societies Registration Act, 1975 is unambiguous and appropriate actions are required in respect of the societies, which all are violating the provisions of the Act.

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13. The common complaints against the Registration Department in the public domain is that the Department is, not conducting inspections periodically nor initiating any action for cancellation of Registration, even though unlawful and illegal activities are visible in many such societies across the State of Tamil Nadu. Therefore, the Head of the Department has to issue necessary instructions to all the authorities to ensure that the inspections are conducted by the Registration Department in respect of the societies registered, verify their records, credentials etc., and if any illegality or unlawful activities are noticed, then initiate further action under the provisions of the Societies Registration Act for cancellation of Registration. Once, the Registration is cancelled by following the procedures as contemplated, then the Police authorities must ensure that such a societies are not being conducted thereafter.

14. Large scale allegations are noticed by the Police authorities. Frequently, they are registering cases against such Clubs and societies across the State of Tamil Nadu. However, the Registration Department remains as a silent spectator, despite the fact that many such criminal cases are filed. The said conduct of the department officials stand deprecated. They are bound to act in such circumstances in the manner prescribed and ensure that the public order is maintained and they co-operate with the actions initiated by the Police authorities. However, it is not happening and the Police authorities are registering criminal cases and the trial is going on for several years and these Clubs are continuing their unlawful activities continuously. This being the manner, in which, the law enforcing authority function, then this Court is of the opinion that the Department officials are to be pulled for their inactions and lackadaisical approach in initiation of action against such illegal activities.

15. This being the facts and circumstances, this Court is inclined to Suo-motu implead the Inspector General of Registration, 100, Santhome High Road, Mullima Nagar, Mandavelipakkam, Raja Annamalaipuram, Chennai - 600 028 for the limited purpose of implementation of the orders passed by this Court.

16. In view of the facts and circumstances established and considering the fact that several criminal cases are registered against the petitioner, this Court is inclined to pass the following orders:



(1) The relief as such sought for in the present writ petition stands rejected.

(2) The Inspector General of Registration, is directed to instruct the respective jurisdictional authorities to conduct inspections under the provisions of the Tamil Nadu Societies Registration Act and verify the genuinity of the Registration and the activities carried on in such recreation clubs, society etc., initiate appropriate action by following the procedures as contemplated under the provisions of the Act. The said exercise is directed to be done within a period of 12 weeks from the date of receipt of a copy of this order. If necessary, a special team of officials are to be constituted to verify the registrations in respect of all these recreation Clubs, societies etc.,

(3) While conducting inspections, the jurisdictional authorities may collect further informations from the jurisdictional Police regarding registration of Criminal cases, if any. Taking note of all these aspects, appropriate actions are to be initiated for cancellation of registration, if any illegality or irregularities are noticed.

(4) The jurisdictional Police authorities, on registration of criminal cases against any such Clubs, societies, are directed to communicate the copy of the F.I.R to the concerned jurisdictional District Registrar of the said society for initiation of appropriate action under the provisions of the Societies Registration Act.

(5) The Director General of Police, is directed to issue circular directing Police authorities to communicate the copy of the F.I.R to the Registration Department without causing any undue delay.

17. With these directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Post this matter under the caption "For Reporting Compliance" on 22.10.2021.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner of Police,
Greater Chennai,
Veppery, Chennai - 600 003.
- 2.The Deputy Commissioner of Police,
Chintadripet, Chennai - 600 002.
- 3.The Assistant Commissioner of Police,
Egmore, Chennai- 600 008.
- 4.The Inspector of Police (L & O)
F.2, Egmore Police Station,
Egmore, Chennai - 600 008.
- 5.The Inspector General of Registration,
100, Santhome High Road, Mullima Nagar,
Mandavelipakkam, Raja Annamalaipuram,
Chennai - 600 028.
- 6.The Director General of Police,
Dr.Radhakrishnan Salai, Mylapore,
Chennai - 600 004.

+1cc to Mr.M.Murali, Advocate Sr No.49624

W.P.No.42735 of 2016

PMK (CO)
PR (18/10/2021)