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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

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THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.27827 OF 2021

AND

W.M.P.NO.29399 OF 2021

Heal Native Health and Wellness Private Limited,
Represented by its Director,
Mr.R.Arun,
Plot No.956, Anandha Bhavanam, 1st Floor,
No.114, 13th Main Road,
Anna Nagar West,
Chennai - 600 040.

... Petitioner

-Vs-

1. The Commissioner of Police,
Chennai City Police Commissionerate,
No.132, Commissioner Office Building,
EVK Sampath Road,
Vepery, Chennai - 600 007.
2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
Chennai - 600 003.
3. The Revenue Officer,
Revenue Department / License Section,
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.
4. The Joint Commissioner (Health),
Greater Chennai Corporation,
Rippon Building, Chennai - 600 003.
5. The Assistant Commissioner of Police,
Anti Vice Squad,
Chennai City Police Commissionerate,
No.132, Commissioner Office Building,
EVK Sampath Road, Vepery,
Chennai - 600 007.



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6. The Inspector of Police,
V4, Rajamangalam Police Station,
2nd Main Road, Thillai Nagar,
Mahavir Nagar, Kolathur,
Chennai - 600 099.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the second, third and fourth respondents to consider the petitioner's application dated 18.10.2021 and consequently, direct the second, third and fourth respondents to issue trade license for the petitioner's shop "LE BLISS SPA" situated at Plot No.956, Anandha Bhavanam, 1st Floor, No.114, 13th Main Road, Anna Nagar West, Chennai - 600 040, without insisting NOC from the first respondent.

For Petitioner : Mr.Vijayan Subramanian

For Respondents : Mr.V.Manoharan
Additional Govt. Pleader
for R1, R5 & R6
Ms.P.T.Ramadevi
Standing counsel for R2 to R4

O R D E R

The prayer sought for herein is for a Writ of Mandamus directing the second, third and fourth respondents to consider the petitioner's application dated 18.10.2021 and consequently, direct the second, third and fourth respondents to issue trade license for the petitioner's shop "LE BLISS SPA" situated at Plot No.956, Anandha Bhavanam, 1st Floor, No.114, 13th Main Road, Anna Nagar West, Chennai - 600 040, without insisting NOC from the first respondent.

2. The petitioner had given an application on 18.10.2021 seeking for a license from the Chennai Corporation, i.e., respondents 2, 3 & 4 to run a SPA Centre in the name and style of "LE BLISS SPA" situated at Plot No.956, Anandha Bhavanam, 1st Floor, No.114, 13th Main Road, Anna Nagar West, Chennai - 600 040

3. The said application though had been made on 18.10.2021, it has not been so far processed and no orders was forthcoming from the respondents. Therefore, the petitioner has moved this Writ Petition with the aforesaid prayer.



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4. Heard Mr.Vijayan Subramanian, learned counsel appearing for the petitioner who would submit that, under the provisions of the Chennai City Municipal Corporation Act, 1919, especially Section 365 Sub section 10, within sixty days, whatever application seeking license is to be disposed of, otherwise there is a deemed provision available in the statute.

5. He would also submit that, while processing the application, the respondents shall process the same without insisting NOC from the Police concerned.

6. Heard Ms.P.T.Ramadevi, learned Standing counsel appearing for the Chennai Corporation who on instructions would submit that, the application had been submitted only on 18.10.2021 as claimed by the petitioner. If at all any such application in format is made along with processing fee and necessary documents, the same would be processed in accordance with law and in this regard, whatever the procedure to be followed and various authorities like Police Authorities to be consulted and those documents would be verified and then only, the license whether can be granted or not to be decided. But anyhow, the said application submitted by the petitioner would be processed in accordance with the provisions of the Act as well as Rules made thereunder at the earliest preferably within a time frame that may be stipulated by this Court.

7. Mr.V.Manoharan, learned Additional Government Pleader appearing for the first, fifth and sixth respondents submits that, the petitioner in his prayer sought for a mandamus to the respondent Corporation to process the application for grant of license to the proposed SPA Center without insisting NOC from the Police Department.

8. In this regard, definitely, the Police Department has got the power / authority, but the Police Department has to verify the place in which the SPA Centre is going to be located and whether any previous complaint has been made against the petitioner or not also has to be verified and only depending upon the antecedent of the petitioner, a suitable recommendation by way of NOC or otherwise would be made to the Corporation and based on such NOC or otherwise to be made by the Police Authorities only, then the respondent Corporation would process the application further and decide it. Therefore, such a prayer without insisting NOC, the petitioner cannot seek, for processing the application, he contended.

9. I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



10. As has been rightly pointed out by the learned Standing counsel appearing for the respondent Chennai Corporation as well as the learned Additional Government Pleader appearing for the Police Department, once an application is filed by any license seeker like the petitioner, it shall be processed by the respondent Corporation strictly in accordance with law and in this regard, certainly the antecedent or otherwise of the petitioner who seeks such license shall be verified by the Police Authorities and after having verified the same depending upon the input to be supplied by the Police Authorities only, the respondent Corporation has to further process the application.

11. However for this process, neither the Corporation Officials nor the Police Officials shall not delay the process of the application, as there is a time limit prescribed under the provisions of the Chennai City Municipal Corporation Act, especially under Section 365 of the Act as referred above. Therefore, having regard to the aforestated facts and circumstances of the case, this Court is inclined to dispose of this Writ Petition with the following orders:

"that there shall be a direction to the respondent Corporation to process the application of the petitioner dated 18.10.2021 for grant of SPA license by processing the same strictly in accordance with law which is prevailing as of now, wherein the role of the Police Department shall not be dispensed with and after getting input from the necessary authorities, the process shall be completed and order shall be passed within a period of six weeks from the date of receipt of a copy of this order."

12. With these directions, this Writ Petition is disposed of. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

vji



To

1. The Commissioner of Police,
Chennai City Police Commissionerate,
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2. The Commissioner,
Greater Chennai Corporation,
Rippon Building,
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3. The Revenue Officer,
Revenue Department / License Section,
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2nd Main Road, Thillai Nagar,
Mahavir Nagar, Kolathur,
Chennai - 600 099.

+1cc to M/s.P.T.Ramadevi, Advocate, S.R.No.69340

+1cc to the Government Pleader, S.R.No.69825

W.P.No.27827 of 2021
and
W.M.P.No.29399 of 2021

PP(CO)
RLP(14/02/2022)