



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2021

CORAM:

WEB COPY

THE HON'BLE MR JUSTICE G.ILANGO VAN

W.P.(MD).No.9058 of 2017

and

WMP(MD)No.6916 of 2017

S.Akbar Ali

... Petitioner

-Vs-

1. The District Collector,
O/o. The District Collector,
Madurai District.
2. The Commissioner of Police,
O/o. The Commissioner of Police,
Madurai.
3. The Inspector of Police,
B1, Villakuthoon Police Station,
Madurai.
4. The Inspector of Police,
Theppakullam Police Station,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 3 and 4 not to interfere the Hotel business of the petitioner during night hours in his Non-Veg restaurant namely, Sulthan Hotel in door No.122A. North Veli Street, Yanaikkal, Madurai, by considering his representation dated 06.05.2017.

For Petitioner	: Mr.M.A.Jinnah
For Respondents	: Mr.M.Ganesan
	Government Advocate (Crl.Side)

ORDER

This writ petition has been filed to direct the respondents 3 and 4 not to interfere the Hotel business of the petitioner during night hours in his Non-Veg restaurant namely, Sulthan Hotel in door No.122A. North Veli Street, Yanaikkal, Madurai, by considering his representation dated 06.05.2017.



2. The case of the petition in brief:-

The petitioner is running a Non- Veg Hotel in the name and style of 'Sulthan Hotel'. For the past 50 years, the Hotel is being run by the petitioner and prior to his father by following the rules and regulations. Sofar, no case has been filed against the petitioner for any sought of violation. The Hotel situated in Yanaikkal area, Madurai, which is having so many business concern, such as Vegetable Market, Fruits Market, Slaughter house etc., During night hours also the labours will come and eat regularly. Suddenly, the respondents 3 and 4 instructed the petitioner to close the Hotel in night hours. So, the petitioner shut down the main door partially and he used to parcel to the labourers. Even then, the respondents 3 and 4 harassed the petitioner to close the Hotel at 11.30. p.m daily. They also started threatening the people, who come to the Hotel. So, the petitioner, sent a representation dated 27.04.2017. Thereafter, on 04.05.2017, at about 12.00 p.m, the fourth respondent entered into the Hotel and threatened the customers. The petitioner was taken to the police station and a case was foisted against him, under Section 75 of Madras City Police Act. The grievance of the petitioner is that no action has been taken on his representation dated 06.05.2017. Against which, the present writ petition.

3. The matter was taken up for hearing, a representation was made on the side of the State that the prayer sought for in this petition is not maintainable and the police authority can very well regulate the business hours of the Hotel during night hours, to prevent any law and order problems.

4. Per contra, it is the contention on the part of the petitioner is that he is entitled to run the business during the night hours. Right to trade even though a fundamental right under article 19 (1) (g) of Constitution of India, the same is subject to reasonable restrictions that can be imposed. It appears that the police insisted to close the hotel after a particular time during night. This cannot be construed as unreasonable. Moreover, as per Section 13 of Shops and Establishment Act, 1947, the business hours is to be regulated by the State Government and the petitioner is also bound by the business hours fixed by the government. So, no materials has been placed before this Court to show that the Government of Tamilnadu has permitted the Shop and Establishment to remain to be open 12.00 midnight. Moreover, after filing of this petition, there was no harassment on the part of the respondents. So, in the light of the subsequent development nothing survives in this petition for further adjudication.

5. It appears that this writ petition is filed subsequent to the filing of the case against the petitioner by the fourth respondent under Section 75 of Madras City Police Act.



6. This Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CRL SIDE)

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// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 District Collector,
O/o. The District Collector,
Madurai District.
- 2.The Commissioner of Police,
O/o. The Commissioner of Police,
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- 3.The Inspector of Police,
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VB (30.03.2021) 3P 5C