



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 22539 of 2021

A. Balakrishnan

... Petitioner

Vs.

1. The Commissioner of Police,
Trichy City,
Tiruchirappalli District.

2. The Inspector of Police,
Cantonment police station,
Tiruchirappalli District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents and their subordinates from interfering with day-to-day affairs of the petitioner's club, namely, Benze Vocation Club situated at No.8/1, District Collector Office Road, Cantonment, Tiruchirappalli District.

For Petitioner : Mr. N. Sudhagar Nagaraj

For Respondents : Mr. M. Sakthi Kumar,

Government Advocate (Crl. Side)

O R D E R

Heard the learned counsel on either side.

2. The petitioner is a recreation club and has been registered as Society under the Tamil Nadu Societies Registration Act, 1975.

3. The grievance of the petitioner is that the respondents are unnecessarily interfering with their day-to-day activity. Hence, this petition has been filed for forbearing the respondents from doing so.

4. The petitioner's counsel states that the members of the petitioner's club will not play for stakes and that they would play only for entertainment. He also pointed out that vide order dated 30.09.2019 in W.P. (MD) No. 21025 of 2019, a set of directions were issued. He states that this Court also may issue the very same directions.

5. Accordingly, following the aforesaid order, the following directions are issued:-

(i) The petitioner Club shall not indulge in any illegal



activity under the guise of playing games;

(ii) If there is any evidence of gambling in some other way, the respondent police have a right to enter the premises of the petitioner's Club, inspect and take further action as per law;

(iii) The respondent police are also advised not to disturb the petitioners Club frequently under the guise of inspection, as it would disturb the peace harmony of the petitioner Club;

(iv) The petitioner and the members of the Club are entitled to carry on lawful activities within their premises and there should not be any interference from the police authorities, so long as their activities are not in violation of the provisions of the Public Gambling Act, 1867 /Tamil Nadu Gaming Act, 1930;

(v) In normal circumstances, there should be no interference in the lawful functioning of the Clubs by the Police. It is not permissible for the police to enter the Club premises as a routine measure, so long as the Clubs are functioning within the frame work of law;

(vi) If the police authorities have specific information or reasonable doubt that the activities carried on by the Club or its members are not in accordance with law or they indulge in unlawful activities in violation of the provisions of the Public Gambling Act, 1867/Tamil Nadu Gaming Act, 1930 or any other enactment, it would be open to them, after recording reasons in the General Diary maintained in the police station to proceed to enter the Club premises, conduct investigation, interrogate those who involve themselves in such activities and take appropriate action on merits and as per law;

(vii) While exercising the powers conferred on the police authorities, they should follow the mandatory provision as contained in Section 5 of the Tamil Nadu Gaming Act, 1930/Public Gambling Act, 1867;

(viii) It is always open to the Club or its members to challenge the action taken by the Police, it was not in accordance with law;

(ix) In case the police authorities were of the opinion that a situation has arisen to suspend the operation of the Club in exercise of the powers conferred, they have to issue an order in writing. When there is no authority granted to the police to issue an order of suspension orally, they are not entitled to pass such oral orders; and

(x) Before passing orders for the purpose of closure of the Club, in exercise of the powers conferred on the authorities, they should follow the principles of natural justice. The Club should be given an opportunity to submit their objections and if so desired, a further opportunity of personal hearing should also be given.



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6.The Writ Petition stands disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PMU

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 Commissioner of Police,
Trichy City,
Tiruchirappalli District.
2. The Inspector of Police,
Cantonment police station,
Tiruchirappalli District.
3. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.SUDHAGAR NAGARAJ, Advocate (SR-39787[F] dated 21/12/2021)

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20.12.2021

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