



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.NO.6567 OF 2022

M/s.Billionaire Brothers,
A Partnership Firm,
Represented by the Partner,
Praveen Rajkumar,
No.24A to G, College Road,
Nungambakkam, Chennai.

... Petitioner

Vs

1. The Commissioner of Police,
Chennai City, Chennai - 600 007.

2. The Inspector of Police,
F-3 Police Station,
Nungambakkam, Chennai.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 1st and 2nd respondents not to disturb the petitioner's peaceful running of the hookah business in its Restaurant and Bar premise namely Barracuda Brew at No.24A-G, College Road, Nungambakkam, Chennai and consequentially restrain the second respondent police from entering the Restaurant and Bar premises or disturbing hookah business of the petitioner without any legal authority or without the prior permission as contemplated under law.

For Petitioner : Mr.T.Balaji

For Respondents: Mr.Gokulakrishnan
Additional Public Prosecutor

ORDER

This writ petition has been filed for the issuance of a Writ of Mandamus, to direct respondents not to disturb the petitioner's peaceful running of the hookah business in its Restaurant and Bar premise namely Barracuda Brew at No.24A-G,



WEB COPY

College Road, Nungambakkam, Chennai and consequentially restrain the second respondent police from entering the Restaurant and Bar premises or disturbing hookah business of the petitioner without any legal authority or without the prior permission as contemplated under law.

2. The learned counsel for the petitioner would submit that the petitioner is running a Restaurant-cum-Bar premises in the name and style of "Barracuda Brew" at No.24A to G, College Road, Nungambakkam, Chennai. He would further submit that the petitioner has obtained all licenses and permits for running the hospitality service with international standards and he is also offering hookah services with health trade license from the competent authority. The Hookah service is provided in accordance with the provisions contemplated under the Cigarettes and other tobacco products (prohibition of advertisement and regulation of Trade and commerce, production, supply and distribution) Act, 2003 shortly called as "COPTA, 2003". The COPTA and Rules contemplate and permit the usage of Hookah with the permissible component as specified in the schedule of the Act.

3. The learned counsel for the petitioner would submit that the petitioner also does not encourage any mixture to hookah other than what is prescribed as per the Act and approved by the competent license inspector/authorities. He would submit that the petitioner also does not provide service of Hookah to any under aged persons.

4. The learned counsel for the petitioner would further submit that the petitioner was running the business smoothly, however, during the Covid-19 pandemic period the restaurant was closed putting the petitioner to severe financial stress. After lifting of lockdown, the petitioner resumed his business. While so, on 09.03.2022 and 11.03.2022 around 9.00 p.m., the second respondent police without search warrant had entered into the premises of the petitioner's restaurant and threatened the manager, staff members, bar tenderers and prevented them from performing their duties and also without any authority had removed the several Hookah instruments.

5. The learned counsel for the petitioner would further submit that already the petitioner's business was greatly affected due to the lockdown and now the second respondent police has caused serious loss of reputation to the petitioner's business and has also created havoc and instilled fear in the minds of the regular customers. Thus, the acts of the respondent police is not proper without any reason.



6. The learned counsel for the petitioner would further submit that there is no restriction for the petitioner to provide hookah services with the permissible component as specified in the schedule of the Act and there is no prohibition under the COPTA, 2003 for the petitioner to provide for such services.

7. The learned counsel for the petitioner in support of his contention has placed reliance on the decision of the Hon'ble Supreme Court in the case of Narinder S.Chadha and Others Vs. Municipal Corporation of Greater Mumbai and Others, reported in (2014) SCC 15 689.

8. The learned Additional Public Prosecutor appearing for the respondents would submit that the respondents are not interfering with the business of the petitioner as long as he follows the Standard Operating Procedure and complies with the provisions under the COPTA, 2003. However, he would submit that in the event of notice of any illegality or violation of the provisions of the COPTA, 2003, the respondents are legally bound to take appropriate action.

9. It is the case of the petitioners that they have been offering Hookah services with permissible component as specified in the schedule of the Act and they are strictly complying with the provisions under the COPTA, 2003. It is the further case of the petitioner that the respondents are unnecessarily interfering into their business.

10. In view of the above, the respondents are directed not to interfere in functioning of the Restaurant-cum-Bar of the petitioner, merely on suspension and surmises. If the respondents receive any tangible information, the respondents are at liberty to inspect the petitioner's restaurant and proceed in accordance with law.

11. This Writ Petition is disposed of with the above directions and observations. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rgm/arb



To

1. The Commissioner of Police,
Chennai City, Chennai - 600 007.

2. The Inspector of Police,
F-3 Police Station,
Nungambakkam, Chennai.

3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.T.Balaji, Advocate, S.R.No.19943

W.P.No.6567 of 2022

KK(CO)
PM/11/04/2022