



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P.No.28420 of 2022

M.Dinesh

...Petitioner

-Vs-

1.The Commissioner of Police,
Office of Commissioner of Police,
Vepery, Chennai - 600 007.

2.The Deputy Commissioner of Police,
J-2 Adyar Police Station,
Adyar, Chennai - 600 020.

3.The Inspector of Police,
J-11 Kannagi Police Station,
Kannagi Nagar,
Chennai - 600 017.

...Respondents

Prayer :Writ Petition is filed under Section 226 of the Constitution of India, pleased to issue a Writ of Mandamus, forbearing the respondents from interfering the petitioner Cloud Kitchen Business activities at night hours till 03.00a.m. At the Cloud Kitchen namely Time to Order, situated at No.3/272, Sadagopa Street, Karapakkam, Chennai - 600 097.

For Petitioner : Mr.A.K.Gajendra

For Respondents: Mr.A.Gokulakrishnan
Additional Public Prosecutor.

ORDER

This petition has been filed seeking to forbearing the respondents from interfering the petitioner Cloud Kitchen Business activities at night hours till 03.00 a.m., situated at No.3/272, Sadagopa Street, Karapakkam, Chennai - 600 097.



2.The learned Additional Public Prosecutor appearing for the respondents would submit that the petitioner is running a hotel which causes law and order problem. He would submit that it is not as if the entire business is stopped, but it is regulated by the respondent. As per Section 39 of the Madras City Police Act, 1888, the Commissioner of Police, entitled to regulate the business by imposing rules.

3.Per contra, the learned counsel for the petitioner would submit that in the absence of any rule, by such exercise of power under Section 39 of the Madras City Police Act, 1888, it is not open to the respondents to stop the petitioner from doing his lawful business. He would submit that in the similar matter, the Hon'ble Madurai Bench of Madras High Court in W.A. (MD).No.547 of 2017 dated 01.09.2017 in the case of The Commissioner of Police, Alagarkovil Road, Pudur, Madurai Vs. E.Navaneethakrishnan had directed the respondent/police not to prevent the petitioner in the case from running the business without any restrictions. The relevant portion of the judgment is extracted hereunder : -

'3.The learned counsel appearing for the respondent/writ petitioner would submit that in the absence of any rule, by such exercise of power under Section 39 of the Madras City Police Act, 1888, it is not open to the appellants to stop the respondent from doing his lawful business.

4.As long as power is available to the Commissioner of Police, Madurai City, the same can be exercised as per law. However, in the absence of any rule, which can be brought forth by exercising power under Section 39 of the Madras City Police Act, 1888, running of business cannot be curtailed.

5.Accordingly, this writ appeal stands disposed of by giving liberty to the petitioner to frame any rules, by exercising the power under Section 39 of the Madras City Police Act, 1988. It is made clear that till such rule is brought forth, the activity of the respondent/writ petitioner, as recorded by the learned single judge, cannot be curtailed. No costs. Consequently, connected miscellaneous petitions are closed.'

4.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.



5. In view of the above, in the absence of any rule the petitioner cannot be prevented from running the business.

6. In the result, this writ petition is disposed of. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

jas/tsh
To

1. The Commissioner of Police,
Office of Commissioner of Police,
Vepery, Chennai - 600 007.

2. The Deputy Commissioner of Police,
J-2 Adyar Police Station,
Adyar, Chennai - 600 020.

3. The Inspector of Police,
J-11 Kannagi Police Station,
Kannagi Nagar, Chennai - 600 017.

4. The Public Prosecutor,
High Court, Madras.

+3cc to M/s.A.K.Gajendhra, Advocate Sr.14504

W.P.No.28420 of 2021

rr[co]
srg 21/03/2022