



W.P.(MD)No.21452 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.(MD)No.21452 of 2022

and

W.M.P.(MD)No.15607 of 2022

Anbagam Recreation Club,
Represented by its Secretary,
Mr.S.Thiruppathi,
S/o.Subbiah,
Door No.70, Melakal Main Road,
Kochadai,
Madurai District.

... Petitioner

Vs.

1. The Commissioner of Prohibition and Excise,
Chepauk,
Chennai – 600 005.
2. The District Collector,
Madurai.
3. The Commissioner of Police,
Madurai.
4. The Assistant Commissioner of Prohibition and Excise,
Collectorate,
Madurai.

... Respondents



W.P.(MD)No.21452 of 2022

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order in C.No.46859/V4/193/2021 dated 01.06.2022 and the consequential impugned order in C.No.V3/2985/20/2022 dated 26.06.2022 on the file of the 3rd Respondent and quash the same as illegal and consequently for a direction, directing the 3rd Respondent to issue 'No Objection Certificate' for grant of FL-2 Bar License for the Petitioner's Recreation Club and forward the same to the 2nd Respondent within a stipulated time.

For Petitioner : Mr.T.Lajapathi Roy

For Respondents : Mr.M.Siddharthan
Addl. Govt. Pleader for R1,R2&R4
Mr.R.M.Anbunithi
Additional Public Prosecutor for R3

O R D E R

This Writ Petition has been filed challenging the order of the 3rd Respondent dated 01.06.2022 rejecting the request made by the Petitioner to grant fresh license to operate a Recreation Club in the name of 'Anbagam Recreation Club' at No.70, Melakkal Road, Kochadai, Madurai. The Petitioner had also challenged the proceedings of the 3rd Respondent dated 26.06.2022, wherein the request for 'No Objection Certificate' was rejected for obtaining FL-2 Bar License to function in the name of 'Anbagam Recreation Club'.



W.P.(MD)No.21452 of 2022

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2. It is submitted by the learned counsel for the Petitioner that the Petitioner had submitted an application dated 11.10.2021 for grant of fresh license to operate Recreation Club in the name of 'Anbaham Recreation Club' at No.70, Melakkal Road, Kochadai Madurai. A notice was issued on 25.04.2022, wherein, the following lapses / defects were pointed out and the same is extracted hereunder:

- “(i) The Premises is situated in Kochadai Road in heavy traffic area*
- (ii) Tasmac Shop is situated near to the premises*
- (iii) Insufficient space for parking facility is in the premises*
- (iv) The low members of the premises Club*
- (v) Fire extinguisher had not been installed in the premises”*

3. The Petitioner was further advised to furnish written explanation. In response, the Petitioner submitted its explanation on 05.05.2022 with reference to each of the above defects pointed out. However, the 3rd Respondent has rejected the Petitioner's request for grant of license to operate Recreation Club by passing a cryptic order, wherein, it



W.P.(MD)No.21452 of 2022

is only stated that 'on scrutinize of the all documents including explanation of the above said Recreation Club is not satisfactory'. The above order has been challenged on the premise that it is non speaking and thus, suffers from violation of principles of natural justice.

4. It is submitted by the learned counsel for the Petitioner that the impugned order dated 26.06.2022 set out five defects. With reference to defects 1 to 4, the same have been rectified. Insofar as 5th defect, it is submitted that reference has been made to certain criminal cases against the Secretary of the Petitioner Club.

5. However, it is now clarified by the learned Additional Public Prosecutor for the 3rd Respondent that insofar as 5th defect, clause V (a) and (b) referred to in the impugned order relate to mistake of fact and in respect of (c), the Petitioner has been acquitted, insofar as (d) and (e), the Petitioner is not connected to the case.



W.P.(MD)No.21452 of 2022

WEB COPY

6. I find merit in the submission made by the learned counsel for the Petitioner that the impugned orders have been passed without considering the Petitioner's explanation to the defects that have been pointed out.

7. In view of the same, the impugned orders dated 01.06.2022 and 26.06.2022 are set aside and the matter is remanded back to the concerned Respondents for fresh consideration. The concerned Respondents are directed to reconsider the Petitioner's request for 'No Objection Certificate', on its own merits and pass appropriate speaking orders in accordance with law within a period of six weeks from the date of receipt of a copy of this order after granting opportunity to the Petitioner and also putting all interested parties on notice. It is made clear that this Court has not expressed any view with regard to the merits of the case and it is open to the concerned Respondents to consider the Petitioner's request on its own merits.



W.P.(MD)No.21452 of 2022

8. Accordingly, this Writ Petition is disposed of. No costs.

Consequently, connected Miscellaneous Petition is closed.

08.11.2022

Index : Yes / No

Speaking Order : Yes / No

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W.P.(MD)No.21452 of 2022

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To

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Chennai – 600 005.
2. The District Collector,
Madurai.
3. The Commissioner of Police,
Madurai.
4. The Assistant Commissioner of Prohibition and Excise,
Collectorate,
Madurai.
5. The Secretary,
Anbagam Recreation Club,
Door No.70, Melakal Main Road,
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W.P.(MD)No.21452 of 2022

MOHAMMED SHAFFIQ, J.

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