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W.P.No.5379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2023

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THE HON'BLE MR. JUSTICE RMT.TEEKAA RAMAN

W.P.No.5379 of 2023

Le Yanam Leisure Society,
Rep. by its President Mr.Kadali Srinivasa Rao,
D.No.1-16-003, Draksharama Road,
Yanam - 533 464.

... Petitioner

Vs.

1.The Commissioner,
Yanam Municipal Corporation,
Tyagaraja Street, Yanam - 533 464.

2.The Regional Administrator,
Office of the Regional Administrator,
Yanam - 533 464.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in No.3135/B2/YM/2022-23/21 DATED 24.01.2023 on the file of the 1st respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the 1st respondent to grant the petitioner Society with a Municipal License.

For Petitioner : Ms.Sunny
for Mrs.V.Srimathi



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For Respondents : Mr.Nirmal Kumar
Government Advocate (Pondicherry)

ORDER

This Writ Petition has been filed for a Certiorarified Mandamus to call for the records in No.3135/B2/YM/2022-23/21 dated 24.01.2023 on the file of the 1st respondent and quash the same as illegal, incompetent and without jurisdiction and further direct the 1st respondent to grant the petitioner Society with a Municipal License.

2. The petitioner Society had made an application to the 1st respondent on 28.11.2022 seeking for a license under Section 355 of the Pondicherry Municipalities Act, 1973. An order was passed by the said authority on 29.11.2022 and he had passed an order stating that the application submitted has been returned due to the absence of certain documents.

3. Under the impugned order, the trade license application received on 20.01.2023 for running LE YANAM LEISURE SOCIETY submitted by the petitioner to Yanam Municipality was thereby returned and was asked to



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resubmit the same along with the following mandatory documents to process the same for issuing Trade License and also for obtaining necessary approval from the Local Administration Department to run the function hall / recreation club legally:

- 1. Registered Lease Deed / Ownership documents of the building.*
- 2. NOC from the building owner (in case of lease).*
- 3. Town Planning approval for Building and Occupancy Certificate issued by the Town Planning Dept.*
- 4. Door Number Certificate and No due Certificate from Municipality.*
- 5. Copy of Memorandum of Association for Society registration and details of Society Members.*
- 6. GST / PAN registration Certificate of Society / Club.*
- 7. Rules / Conditions to enroll as Members in Society / Club.*
- 8. Games / Recreation Activities proposed along with details.*
- 9. FSSAI License if canteen / food served is proposed to be in premises.*
- 10. Fire Safety Certificate.*
- 11. Labour Licence from Labour Department.*



12. Maximum Number of members permitted at a time along with parking facility details.

4. Learned counsel for the petitioner would contend that the petitioner has applied for recreation license under Section 349 of the Pondicherry Municipalities Act, 1973. However, the first respondent / Municipality Commissioner has treated it as a trade license and passed the impugned order.

5. After perusing the impugned order, I find that the petitioner's application is only returned and was asked to re-submit along with documents mentioned in S.Nos.1 to 12 as extracted supra.

6. Learned counsel for the petitioner has submitted that documents in S.No.1,3,4,5,6,7 and 8 were already furnished and remaining 2, 11 and 12 are yet to be submitted. With regard to items mentioned in S.Nos.9 and 10, he would contend that they are not required in view of the activities proposed to be made.



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7. In view of the further contention that without making field inspection, they cannot reject the application, learned Government Advocate drew my attention to Section 349 and 355 of the Pondicherry Municipalities Act.

8. In particular, learned Government Advocate referred to Section 349 (2) which reads as follows:

"349 (2). (2) Upon the receipt of any such application, the Commissioner shall inspect the place or building in respect of which a licence is required, and may call on the applicant, by notice in writing, to make any alteration or addition in the material or arrangement of the enclosure or building or in the precautions for the safety of the public to be assembled therein, and may refuse to grant a licence until the alteration or addition is made"

and hence, I find that in view of the specific provisions and also the returns made in the impugned order, they are essential part of duties the



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RMT.TEEKAA RAMAN. J.,

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