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W.P.Nos.134 of 2022 and 28330 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.134 of 2022 and 28330 of 2021
W.M.P.Nos.145 of 2022 and 29913 of 2021

W.P.No.134 of 2022

E.Thamizhvendan

... Petitioner

Vs.

1. The Commissioner of Police,
Coimbatore City,
Coimbatore.

2. The Inspector of Police,
E2, Peelamedu Police Station,
Peelamedu,
Coimbatore-641 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 2nd respondent or their men, agents from interfering with the peaceful conduct of the petitioner's business i.e., in the name and style of "M/s.LYRA AYUR SPA" at M/s.R.R.Residency- Hotel Mahi's Gateway in the 3rd floor, Door No.5, Avinashi Road, Goldwins Civil Aerodrome Post, Coimbatore-641 014.



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W.P.No.28330 of 2021

A.Anand

... Petitioner

Vs.

1. The Commissioner of Police,
Coimbatore City,
Coimbatore.

2. The Inspector of Police,
E2, Peelamedu Police Station,
Peelamedu,
Coimbatore-641 004.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus forbearing the 2nd respondent or their men, agents from interfering with the peaceful conduct of the petitioner's business i.e., in the name and style of "M/s.BLUE MOON SPA" at M/s.Sri N.A.Residency-Ground Floor, No.175B, Avinashi Main Road, SITRA, Civil Aerodrome Post, Coimbatore-641 014.

(In both writ petitions)

For Petitioners : Mr.K.G.Senthil Kumar

For Respondents : Mr.A.Gopinath,
Government Advocate (Crl.Side)

COMMON ORDER

The prayers sought for in both the writ petitions are to forbear the 2nd respondent or their men, agents from interfering with the peaceful



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conduct of the petitioners' business i.e., in the name and style of "M/s.LYRA AYUR SPA" at M/s.R.R.Residency- Hotel Mahi's Gateway in the 3rd floor, Door No.5, Avinashi Road, Goldwins Civil Aerodrome Post, Coimbatore and "M/s.BLUE MOON SPA" at M/s.Sri N.A.Residency-Ground Floor, No.175B, Avinashi Main Road, SITRA, Civil Aerodrome Post, Coimbatore.

2. The learned counsel for the petitioners would submit that the petitioners are carrying on business of conducting therapeutic massage therapy in the name and style of "M/s.LYRA AYUR SPA" at M/s. R.R.Residency - Hotel Mahi's Gateway in the 3rd Floor, Door No. 5, Avinashi Road, Goldwins, Civil Aerodrome post, Coimbatore and "M/s.BLUE MOON SPA" at M/s.Sri N.A.Residency-Ground Floor, No.175B, Avinashi Main Road, SITRA, Civil Aerodrome Post, Coimbatore in the recent months without any room for complaint and no FIR has been registered against the petitioners.

2.1. He further submitted that the Principle of massage involved is ayurvedic in nature which remains a part and parcel of Kerala



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Traditional Treatment which cures many illness in the body including the nervous disorder in a slow phased process and the customers come to the centre for treatment and according to the type of treatment carried on the charges are made accordingly.

2.2 He further submitted that on 06.10.2021, the Coimbatore City Municipal Corporation has granted me Trade License from 06.10.2021 to 31.03.2022 for the said SPA's for the business of conducting therapeutic massage therapy in the above said name and style. Further, there are qualified and trained therapists working under the "SPA" Centre and they are trained to identify and treat the nerves, blood vessels and without damaging any part of the body. They can apply simple pressure and thereby the nervous system stimulated for free flow of blood. Likewise, the blood vessels also get cleared for free flow of blood without any obstructions.

2.3 He further submitted that by virtue of this kind of Ayurvedic treatment, many customers who underwent treatment from this centre got cured. While things being so, empty complaints with no prima



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facie basis art given to the respondents as if some illegal activities are going on the centres which is completely incorrect and factually wrong to state such illegal activities are taking place in the centres and the respondents are put to strict proof of the same. The respondent police, entertaining bogus complaints have trespassed into the property in the guise of inspecting the premises and pressurize to shut down the business and also they threatened the petitioners to close the business. Hence, the petitioners have come forward with these writ petitions.

2.4 The learned counsel for the petitioners also has drawn the attention of this Court to the order dated 01.03.2019 passed by this Court in W.P.No. 4533 of 2017 in the case of ***M/s.Taksu Bali Spa Private Limited -vs- The Commissioner of Police, Coimbatore City and three others***, wherein this Court has taken into consideration the similar prayer and prays for similar orders.

3. The learned Government Advocate(crl.side), on instructions, would submit that there are no previous cases as against the petitioners' therapy Centres.



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4. Heard, the learned counsel appearing on either side.

5. The grievance of the petitioners is that the respondent police is harassing some of the therapy centres in Coimbatore. This Court on an earlier occasion had elaborately discussed about the similar subject and passed order dated 09.12.2014 in W.P.Nos.24629/2014 etc., batch reported in **2015[1]MLJ 308** in the case of ***Masti Health and Beauty Private Limited Vs. Commissioner of Police , Chennai***. It is relevant to extract paragraph 66 & 67 of the above said order which reads as follows:-

“66. Therefore, if the respondents wish to regulate the business/profession of health centres, massage parlours and spas, they must take recourse either to the enactment of a legislation or to the issue of rules/by-laws in exercise of the power conferred by the respective enactments to make subordinate legislation.

67. In the light of the above, all the writ petitions are disposed of to the following effect:-

[i] The respondents shall not, as a matter of routine and without any basis, conduct any raids and interfere with the business carried on by the petitioners;



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[ii] In specific cases, where the police have reasonable grounds to believe that an offence punishable under the Immoral Traffic [Prevention] Act, has been or is being committed, it is open to the police to take action, after scrupulously following all the steps indicated in Section 15 of the said Act. The steps to be followed are narrated by me in paragraph 28 above; and

[iii] Based upon the laws enacted in various States of the United States of America and Singapore, which I have dealt with in paragraphs 39 to 54, the respondents may take appropriate steps for bringing in either a new legislation or a sub ordinate legislation in terms of the provisions of the Chennai City Municipal Corporation Act or the Chennai City Police Act, so that public order, decency and morality, which can form the basis for a regulatory law under Article 19(2) of the Constitution are taken care of. The Government shall file a report on or before 31.03.2015, before this Court, about the decision taken. No costs Consequently all connected pending MPs are closed.”.

6. In the light of the said order, this Court is inclined to direct the respondents to comply with the directions/conditions imposed in paragraph



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67 of the said order as extracted above. It is also made clear that the petitioners under the guise of carrying on business activity, shall not indulge in any unlawful or illegal activities detrimental to law and order or public order. It is further made clear that this order will not prohibit the respondents/authorities concerned from interfering in the petitioners' business activities, if there is any violation on the part of the petitioners.

7. With the above directions, both the Writ Petition stand disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

27.11.2023

Index : Yes/No
Internet: Yes/No
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