



W.P. No. 33221 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 33221 of 2023

and

W.M.P. Nos. 32936 to 32938 of 2023

Victory Yanam Sports Cultural &
Recreation Club (S.No. 273/2021)
Represented by its President
Kilaru Jagadish,
Door No.1-10-031,
Lakshmi Ganesh Old Rice Mill,
Rammannakodu Village,
Meettakuru, Yanam,
Puducherry – 533464.

... Petitioner

-VS-

1. The Commissioner,
Yanam Municipality,
Yanam, Puducherry.
2. The Regional Administrator-cum-
Sub-Divisional Magistrate,
Yanam.
3. The Superintendent of Police,
Yanam Police Station,
Yanam – 533464.
4. The Circle Inspector of Police,
Yanam Police Station,
Yanam,
Puducherry – 533464.

... Respondents



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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent impugned order dated 16.11.2023 to quash the same and consequently directing the Respondents not to interfere with the Petitioner Society's functioning in any manner except in accordance with law.

For Petitioner : Mr. G.Vijay Anand
for Mr. A.Rajendra Kumar

For Respondents : Mr. M.Nirmal Kumar
Government Advocate

ORDER

Heard Mr. G.Vijay Anand, Learned Counsel for Mr. A.Rajendra Kumar, Learned Counsel for the Petitioner and Mr. M.Nirmal Kumar, Learned Government Advocate appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner is a Club registered under the Societies Registration Act, 1860, functioning in Yanam Municipality in Union Territory of Puducherry. It is the case of the Petitioner that it has complied with all laws relating to the conduct of club activities under relevant enactments and has also obtained trade licence dated 30.08.2023 from the First Respondent for carrying on activities as



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recreation and cultural club, but to its shock, the First Respondent, in his letter dated 16.11.2023 addressed to the Manager with a copy to the Petitioner, has observed as follows:-

“ I am to inform that I had received information, from the Regional Administrator, Yanam that Victory Yanam Sports Cultural and Recreation Club, Yanam and Good Luck Recreation and Cultural Association, Yanam are commenced functioning in Yanam without a Municipal license and also further highlighted that these Clubs are causing havoc an nuisance to the General Public that may abruptly and utterly strikes hard on the law and order situation in Yanam. In this regard, General Public also raised their severe concerns and objections pertaining to functioning of these clubs.

I, therefore, directed you on yesterday i.e., on 15.11.2023 to inspect these Clubs also inform these clubs to stop their activities immediately as per the Pondicherry Municipality Act, 1973.

Even after passing such instructions, I received information that these clubs are still started functioning today also i.e., on 16.11.2023. In this connected, I am to inform you that the license was not obtained by Victory Yanam Sports Cultural and



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Recreation Club, Yanam and Good Luck Recreation and Cultural Association, Yanam through proper channel by observing the official procedures. I further highlight that I withhold their license and also returned their applications due to general public severe and lawful grievances. I, therefore, reiterate that I have not issued any license to these recreation societies as of now.

Further, I am to remind that the applications of Victory Yanam Sports Cultural and Recreation Club, Yanam and Good Luck Recreation and Cultural Association, Yanam for municipal license were summarily rejected , returned and dispatched to respective societies on 10.11.2023 through Courier. But, it learnt that they have not received the said communication.

Hence, you are hereby directed to take the copies of those letters and hand over to the respective societies in their building premises immediately and also further instructed to stick the same in their society's premises, furthermore bestow your personal attention to halt their activities on war-foot basis.”

In that backdrop, the Petitioner has filed this Writ Petition challenging the said order and has sought for consequential direction to the Respondents not to interfere with its functioning in any manner except in accordance with law.



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3. It has been brought to notice by Learned Counsel for the Respondents that the aforesaid licence dated 30.08.2023 had been granted to the Petitioner under Section 355 of the Puducherry Municipalities Act, 1973 (hereinafter referred to as 'the Act' for short), which reads as follows:-

“355. Purpose for which places may not be used without licence.-

(1) The Council may, by a notification and by beat of drum, direct that no place within municipal limits shall be used for any one or more of the purposes specified in Schedule III without the licence of the Commissioner and except in accordance with the conditions specified therein and where the licence is for keeping hotels, restaurants, eating-houses, coffee houses, laundries or running barber saloons the licence issued by the Commissioner shall always contain a condition that admission or service therein shall be available to any member of the public:

provided that no such notification shall take effect until sixty days from the date of publication.”

It is pointed out that the said provision is confined only to carrying on business as 'hotel' or 'restaurant' or 'eating house' or 'coffee house' cannot entitle the



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Petitioner to carry on any 'entertainment' activities as required under Section 348 of the Act, which is extracted below:-

“348. Licences for use of enclosed place or buildings for public resort or entertainment.-

No enclosed place or building, whether permanent or temporary, shall be used for public resort or entertainment in the following cases, unless a licence has been obtained in respect thereof under this Act -

- (a) In every case where the area within the enclosed place or occupied by the building is sixty square metres or more.*
- (b) In case the area aforesaid is less than sixty square metres, if the public are allowed to take part in any game or competition therein.”*

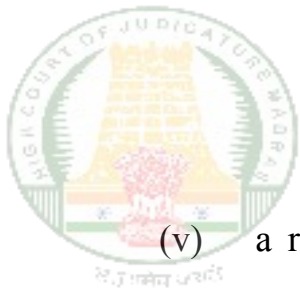
4. Having regard to the aforesaid contention raised by the First Respondent, Learned Counsel for the Petitioner informs that the Petitioner has on 28.11.2023 made an application under Section 348 of the Act for grant of licence for carrying on 'entertainment' activities in its club and that the Petitioner would be satisfied if the same is duly considered and necessary orders are passed thereon expeditiously.



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5. In view of the foregoing discussion, the following order is passed:-

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- (i) it is made clear that in view of the possession of licence under Section 355 of the Act, the Petitioner shall be entitled to carry on activities relating to 'hotel' or 'restaurant' or 'eating house' or 'coffee house' and in the absence of any measures taken to terminate the same in the manner recognized by law, the Petitioner shall not be restrained from carrying out such activities in accordance with law;
 - (ii) the First Respondent shall immediately examine the application dated 28.11.2023 made by the Petitioner under Section 348 of the Act for grant of licence for carrying on 'entertainment' activities in its club including ascertaining as to whether the Petitioner would be entitled to it;
 - (iii) if it is found that any other details or supporting documents is necessary, the deficiencies in that regard shall be informed in writing to the Petitioner requiring the same to be furnished within a time frame of not less than 15 days for the same;
 - (iv) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;



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(v) a reasoned order shall be passed dealing with each of the contentions

raised on merits and in accordance with law and the decision taken

communicated by 31.01.2024 under written acknowledgment; and

(vi) it is hastened to add here that the Petitioner shall not be entitled to carry

on any activity relating 'entertainment' till necessary licence under

Section 348 of the Act is obtained by it from the First Respondent.

In the upshot, the Writ Petition is disposed on the aforesaid terms.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

29.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 15.12.2023.

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To

1. The Commissioner,
Yanam Municipality,
Yanam, Puducherry.
2. The Regional Administrator-cum-
Sub-Divisional Magistrate,
Yanam.



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3. The Superintendent of Police,
Yanam Police Station,
Yanam – 533464.

4. The Circle Inspector of Police,
Yanam Police Station,
Yanam,
Puducherry – 533464.

Copy to

The Registrar (Judicial),
Madras High Court,
Chennai – 600 104.



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P.D. AUDIKESAVALU, J.

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