



W.P. (MD) No. 21049 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.03.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEVALU

W.P. (MD) No. 21049 of 2022

and

W.M.P. (MD) Nos. 15280 and 15281 of 2023

Black & White Recreation Club,
Rep. by its Secretary,
M.Chelladurai,
S/o. Muniyandi,
Door No. 13/16, 6th Street, Karpaga Nagar,
K. Pudur,
Madurai.

... Petitioner

Vs.

- 1.The Commissioner,
Department of Prohibition & Excise,
Chepauk,
Chennai.
- 2.The District Collector,
Madurai District.
- 3.The Assistant Commissioner (Excise),
Department of Prohibition and Excise,
Madurai.



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4.The Commissioner of Police,
Madurai City,
Madurai.

5.The Inspector of Police (Law & Order),
E-1 K.Pudur Police Station,
Madurai City,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records relating to the order passed by the 4th respondent in his proceedings in C.No. 8676/V4/50/2021 dated 09.06.2022 and set aside the same as illegal and consequently direct the respondents No.4 and 5 not to interfere into the administration of the club activities.

For Petitioner : Mr. R.Gandhi

For Respondents : Ms. M.Aasha
Government Advocate (Crl. Side)
(for R1, R3 to R5)

Mr. K.S.Selvaganesan
Additional Government Pleader
(for R2)



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ORDER

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Heard Mr. R.Gandhi, Learned Counsel for the Petitioner, Mr. M.Aasha, Learned Government Advocate (Criminal Side) appearing for the First, Third to Fifth Respondents, Mr. K.S.Selvaganesan, Learned Additional Government Pleader appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, which is a non-proprietary club, had sought for grant of FL2 licence under the Tamil Nadu Liquor (Licence and Permit) Rules, 1981 (hereinafter referred to as 'the Licence and Permit Rules' for short) and in that backdrop, as it was required to produce its licence granted by the Fourth Respondent under Section 34 of the Madras City Police Act, 1888 (hereinafter referred to as 'the MCP Act' for short), it had made an application in that regard, though, according to the Petitioner, it was not actually necessary. However, the Fourth Respondent by Order in C. No. 8676/V4/50/2021 dated 09.06.2022 observed that on scrutiny of all the documents produced by the Petitioner, it was not satisfactory and its application was rejected with an advice to stop its activities forthwith and the Fifth



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Respondent was instructed to conduct periodical verification and initiate action, if any recreational activities takes place there, as per law in force, which is assailed in this Writ Petition.

3. The pivotal attack on the impugned order by Learned Counsel for the Petitioner is that it is vague. There is substantial force in the said contention inasmuch as there is no reference to any rule prescribing what are the documents required which have not been produced and it has not been explained how the conclusion was arrived that it was not satisfactory without disclosing as to whether the Petitioner had been called upon to produce the same and had failed to do so. In such circumstances, the impugned order passed by the Fourth Respondent, which cannot be sustained, has to be set aside and the matter is remitted for fresh consideration.

4. Learned Counsel for the Petitioner next pleads that the word 'public entertainment' in Section 34 of the MCP Act does not include activities of a non-proprietary club, like the present one, which is restricted to its members, meaning thereby that it is not necessary for the Petitioner to obtain any licence from the Fourth Respondent. However, this aspect of the matter



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requires to be first raised before the Fourth Respondent and depending upon its outcome, it would be open to the Petitioner to pursue that contention at the appropriate stage.

5. In view of the foregoing discussion, this Court without expressing any view on the merits of the controversy, passes the following order:-

- (i) impugned Order in C. No. 8676/V4/ 50/2021 dated 09.06.2022 passed by the Fourth Respondent is set aside and the matter is remitted to the Fourth Respondent to be determined afresh having due regard to the observations made supra;
- (ii) 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 10 working days for the same;
- (iii) 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;
- (iv) a reasoned order shall be passed dealing with each of the contentions



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

communicated under written acknowledgment; and

- (v) such exercise shall be completed within a period of 60 days from the date of receipt of the copy of this order.

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

Consequently, connected Miscellaneous Petitions are closed. No costs.

02.03.2023

SJ

Index: Yes/No

Internet : Yes/No



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To

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P.D.AUDIKESAVALU,J.

SJ

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