

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

211(1)

CWP-28142-2018

Date of Decision:31.08.2023

Association of Beauty Health
Ayurveda & Spa and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

211(2)

CWP-12550-2019

Urvashi Arora and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

211(3)

CWP-17777-2019

Joicy Zou and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

211(4)

CWP-18325-2019

Aura Day Spa (Ganpati Arcade) and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Arjun Shukla, Advocate,
for the petitioners in CWP-28142-2018.

Mr. Deepak Singh Saini, Advocate,
for the petitioner(s) in

CWP-12550-2019 & CWP-17777 of 2019.

**Mr. Ajay Kripal Singh, Advocate for
Mr. Aman Pal, Advocate,
for the petitioners in CWP-18325-2019.**

Mr. Pankaj Mulwani, D.A.G., Haryana.

**Mr. Anil Chawla, Advocate,
for the respondent-Municipal Corporation, Gurugram.**

VINOD S. BHARDWAJ , J.(Oral)

Four writ petitions are being decided by a common order as the issues raised in all these writ petitions are identical. Facts are, however, extracted from CWP-28142-2018 titled as **Association of Beauty Health Ayurveda & Spa and others Versus State of Haryana and others.**

The petitioners' Association claims to be involved in wellness activities for promoting health and quality lifestyle. They are thus carrying on business of Spa/body massage services along with beauty parlour for beauty care and health treatments. It is averred that there is no regulatory/statutory mechanism or licence required for carrying on such business activities. No illegal or unlawful activity takes place at the premises of the petitioners while conducting their business, however, the Law Enforcement Agencies continue to conduct raids at the business premises of the petitioners in an illegal manner and without any tangible material. Often such raids are carried out on a preventive pretext that unlawful/immoral activities take place at such business premises. The business activity of the petitioners thus suffers a severe set-back and social acceptance on account of such portrayal by the Law Enforcement Agencies. The apprehensions are largely ill-founded and misplaced. Under the garb of alleged Law

Enforcement, various directions that are issued amount to breach of privacy of the customers. Additionally, the staff as well as the customers visiting these parlours/centres are harassed in the name of maintaining law and order. The petitioners contend that they have been making representations to the concerned authorities to frame appropriate laws for regulating such centres since similar statutory provisions have been framed in various countries.

Reply by way of affidavit of Karan Goel, Assistant Commissioner of Police, DLF, Gurugram had been filed wherein it is averred that the raids are conducted in the Spa centres as and when any information with regard to immoral trafficking is received and on completing formalities as required by law. On various such instances, Spa centres are found to be indulging in immoral activities for which FIRs have been registered.

I have heard learned counsel appearing on behalf of the respective parties and have gone through the documents appended along with the present petitions.

Conducting raids on the premises of the petitioners' is admitted by the respondents-police. They have, however, maintained a stance that such raids are conducted on receipt of information about unlawful activities being run at the premises. Article 19(1)(g) of the Constitution of India vests a right on every citizen to practice any profession or to carry on any occupation, trade or business subject to the limitations prescribed under Article 19(6) of the Constitution of India. It empowers the police to do acts for enforcement of any existing law or the restrictions provided thereunder and vests an authority with the State to make any law, in the interest of

general public to regulate such business, trade or activity.

It is not in dispute that the State has not notified any law for regulating and governing the Spa/Massage centres etc. The raid is justified on the ground that information regarding immoral trafficking is often received and registration of FIRs have lent further credence to the apprehensions expressed by the respondents and such raids cannot be said to be wholly misconceived. A mere perception of an immoral activity cannot be construed as a cogent apprehension as empowering Law Enforcement Agencies to conduct raid on any business establishment as per their will, whims and caprices. It is expected that an appropriate mechanism is devised by the respondents-State for internal administration and for authorizing conduct of any raid lest the process of Law Enforcement becomes a tool of oppression and suppression. While the agencies are undoubtedly entitled to inspect any premises where an illegality/crime is believed to have or like to take place, however, the procedure thereof has not been well-crystallized for proper functioning and implementation by the Department. As such raids are usually based on secret information and not a part of the ongoing investigation post-registration of a criminal case. Issuance of any directions in a ministerial manner, notwithstanding the rights of an individual under Article 19(1)(g) of the Constitution of India are required to be taken into consideration. This Court has also examined the reply in detail. Even though the police has taken refuge about conducting raids as a part of law enforcement, however, the reply is deficit about total number of spa/massage centres running in Gurugram; the total number of raids conducted; the total number of FIRs registered and as to in how many such cases, the prosecution succeeded in securing conviction. Compilation and presentation

of such data would have been an indicator of the validity of the concern raised. With-holding of such information rather leads to a presumption that law and order or possibility of immorality is more of a shield than as a concern. It is thus essential at this juncture that the respondents should involve all stake holders in the discussion for framing appropriate guidelines to balance the enforcement of law and business interest of the petitioners.

Since all these petitions relate to Gurugram, the petitioners may, appear before the Commissioner of Police, Gurugram and submit a comprehensive representation highlighting their grievances whereupon a considered decision and guidelines be issued by the Commissioner of Police for enforcement and compliance by the subordinate Law Enforcement staff.

Counsel for the petitioners contend that they would be satisfied at this juncture with the aforesaid directions and they do not press the present writ petitions any further.

The present writ petitions are accordingly disposed of as not pressed, at this stage, with liberty(s) as aforesaid.

August 31, 2023
ps-I/seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No