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W.P.No. 16807 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.16807 of 2024

and

W.M.P.Nos.18485,18486 and 18487 of 2024

Sri Satya Sai Recreation Society Yanam

Represented by its General Secretary

Lanka Vankanna Babu

S/o Chitabbai

No.10-10-082, Kanakalapet,

Yanam, Pondicherry

.. Petitioner

Versus

1. Union of India

Represented by its Secretary

Local Administration Union Territory of Puducherry

Secretariat, Pondicherry.

2. The Commissioner,

Yanam Municipality,

Yanam.

...Respondents

Prayer: This petition is filed under article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records in letter No.26/11/YM/GLRc/2023-24 dated 24.11.2023 and



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consequential order in letter No.2611/YM/GLRC/2023-24-2 dated 26.11.2023 on the file of the second respondent and quash the same as illegal, arbitrary and against the principles of natural justice and direct the respondent to de-seal the petitioner's premises and issue trade license to the petitioner and pass orders.

For Petitioner : Mr.Dr.A. Thiyagarajan,
Sr.Advocate for R.Narayanan

For Respondent :Mr.S. Raveekumar,
Government Pleader
Assisted by N.Nirmal Kumar,

Puducherry

ORDER

This petition is filed to seeking to issue a writ of Certiorarified Mandamus calling for the records in letter No.26/11/YM/GLRC/2023-24 dated 24.11.2023 and consequential order in letter No.2611/YM/GLRC/2023-24-2 dated 26.11.2023 on the file of the second respondent and quash the same as illegal, arbitrary and against the principles of natural justice and direct the respondent to de-seal the petitioner's premise and issue trade license to the petitioner and pass orders.



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2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the petitioner is running a recreation club, running in the name and style of Sri Satya Sai Recreation Society Yanam registered under the provision of society and Registration Act, 1860 vide Registration No. 74 of 2022. Petitioner's society being a non-commercial one obtaining trade license from the local authority does not apply to this petitioner. While so, the second respondent joined hands with the police authorities and started interfering with the peaceful functioning of the society, thereby the petitioner was forced to file an application on 18.03.2022 for trade licence before the second respondent. However, the second respondent officials have not processed the application of the petitioner. Due to which the petitioner filed W.P.No.28869 of 2022 before this Court and this Court vide order dated 07.12.2022 directed the second respondent herein to consider the petitioner's application and pass orders within a period of two months from the date of receipt of the order copy. In spite of the same the second respondent did not pass orders and started interfering with the peaceful



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possession of the petitioner's society. Therefore, the petitioner filed a writ petition in W.P.No.7241 of 2022 seeking for a mandamus, directing the respondent police therein not to interfere with the affairs of the petitioner's society and this Court directed the respondent police therein not to disturb the petitioner association frequently under the guise of inspection as it would disturb the peace, harmony of the petitioner association. In spite of the clear direction issued by this Court a notice under Section 145 of Cr.P.C was issued on 07.11.2022 directing the petitioner to close the recreation Society. Challenging the same, the petitioner filed a W.P.No.31369 of 2022 and this Court vide order dated 03.11.2023 allowed the writ petition and quashed the impugned order dated 07.11.2022. However, the second respondent rejected the application of the petitioner filed for grant of license on 24.11.2023 vide proceedings in letter No.2611/YM/GLRC/2023-24 for want of filing mandatory documents. Further without providing an opportunity of being heard or providing sufficient time, immediately on 26.11.2023, the second respondent by his proceedings in letter no.2611/YM/GLRC/2023-24/2 seems to have issued to stop the activities of the societies without adhering to procedures contemplated under the law and on 28.11.2023,



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the respondent sealed the petitioner's recreation club. Hence, the petitioner sent a representation on 28.11.2023 seeking time to furnish the documents requesting to re-open the society. However, no action has been taken. Hence the petitioner has approached this Court seeking to quash the order of the second respondent dated 24.11.2023 in No.2611/YM/GLRC/2023-24 and order dated 26.11.2023 in letter no.2611/YM/GLRC/2023-24/2.

4. The learned counsel for the petitioner submitted that the second respondent without providing an opportunity of personal hearing had passed the order dated 24.11.2023 and 26.11.2023 which is against the principles of natural justice. Hence prays to allow this petition.

5. The learned Government Pleader appearing for the respondent submitted that sufficient time was granted to the petitioner to produce the relevant documents. However, the petitioner has not come forward to produce the relevant documents required for grant of licence. Hence, prays to dismiss this petition.



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6. I have given anxious consideration to either side submissions and perused the materials available on record.

7. On a perusal of records it is seen that this Court vide order dated 03.11.2023 in W.P.No.31369 of 2022 has already directed the second respondent not to interfere and embarrass the members of the society and the relevant portion of the said Judgment is extracted hereunder:

“7. This Court considers that there is an arbitrary exercise of administrative powers by the second respondent, and it has to go. Once the Municipality grants permission to the petitioner-societies to hold its activities in the premises, the second respondent is only required to keep a vigil whether the conditions stipulated by this Court in W.P.No.7241 of 2022 is complied. However, in the grab of verifying or ascertaining the compliances of those conditions. The second respondent cannot



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interfere and embarrass the member of the societies. I submit that a show cause notice ought to have granted, hold enquiries and does not meddle his power to stop the activities without notice, unless it has creditable material about commission of cognizable offence within the persons of the societies.

8. These petitions are accordingly allowed and the impugned notice dated 07.11.2022 issued by the second respondent is hereby quashed. The second respondent is now directed to follow what is herein above indicated. No costs. Consequently, connected miscellaneous petitions are closed.”

In view of the above it is made clear that the issue involved in this writ petition has already been dealt with and this Court had already directed the second respondent not to interfere and embarrass the members of the societies and had already quashed the impugned notice dated 07.11.2021, wherein a direction was issued to the petitioner to close the



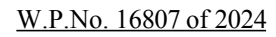
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recreation society. When this being the case, the second respondent vide order dated 24.11.2023 have returned and rejected the petitioner's application dated 18.03.2022 through his proceedings in letter No.2611/YM/GLRC/2023-24 for want of filing mandatory documents.

8. On a perusal of records it is seen that the core contention of the petitioner is that even to produce the mandatory documents or relevant records as sought for by the second respondent sufficient time was not granted to the petitioner as the impugned notice was served to him on 26.11.2023 and on the very next day on 28.11.2023 the respondent sealed the petitioner's recreation club.

9. In view of the above facts this Court directs the petitioner to produce all the relevant documents to the second respondent within a period of two weeks from the date of receipt of a copy of this order and the second respondent is directed to scrutinize all the papers and provide an opportunity of personal hearing to the petitioner and pass appropriate orders within a period of eight weeks from the date of receipt of the documents from the petitioner.



27.06.2024

To

2. The Commissioner,
Yanam Municipality,
Yanam.



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V.BHAVANI SUBBAROYAN, J.

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