



W.P(MD)No.3316 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P(MD)No.3316 of 2024

Pemilavathi

... Petitioner

Vs.

1. The Superintendent of Police,
Nagercoil,
kanniyakumari District,

2. The Inspector of Police,
Kanniyakumari Police Station,
Kanniyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, forbearing the Respondents 1 and 2 from anyway interfering with peaceful conduct of Petitioner's business at "Leaf and Tree Ayurvedic Spa" Hotel Rajeshwari International Hotel, Ground Floor, Room No.413 & 414, Near Murugan Kuntram, Bypass Road, Kanniyakumari, Kanniyakumari District based on the Petitioner's representation, dated on 30.01.2024.



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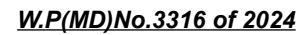
For Petitioner : Mr.S.P.Vijay Anandh
For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This Writ Petition has been filed seeking issuance of a writ of Mandamus against the Respondents 1 and 2 from anyway interfering with peaceful conduct of the Petitioner's business.

2.The learned Counsel for the Petitioner contended that the Petitioner is running a Leaf and Tree Ayurvedic Spa near Murugan Kuntram, Bypass Road, Kanniyakumari. He would also contend that the Respondent Police are frequently visiting the Petitioner's Leaf and Tree Ayurvedic Spa and causing harassment to her. Therefore, the Petitioner was forced to file this petition seeking direction against the Respondents 1 and 2 from anyway interfering with peaceful conduct of the Petitioner's business at Leaf and Tree Ayurvedic Spa.

3.In this case, it is the contention of the learned Counsel for the Petitioner that the Respondents used to interfere with the affairs of



d) The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to."

a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall



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summon such person through a written summon under Section 160 Cr.P.C., specifying a particular date and time for appearing before them for such an enquiry/investigation.

b) The respondent/Police is directed to serve summons mentioning the CSR number, date of complaint and the name of the complainant.

c)The minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.

d)The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.

e)The guidelines stipulated for preliminary enquiry or registration of FIR by the Hon'ble Supreme Court in Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)] shall be strictly adhered to.

f) If any cognizable offence is committed, then it is open to the respondent police to take appropriate action or else they should not interfere with the civil dispute between the parties."

5. Therefore, the learned Counsel for the Petitioner seeks the same direction for this case also.

6. The learned Government Advocate (Crl. Side) by way of reply submitted that the Petitioner has to obtain approval from the local body as per the latest Government Notification, dated 12.04.2023 issued by the Municipal Administration and Water Supply (Election) Department, under which, the Tamil Nadu Urban Local Bodies Rules, 2023 had been introduced. Under Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023, for conducting spa, massage parlour and beauty parlour with partition or room or sauna or bathing facility, licence had to be obtained



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from the local body or Commissioner of Municipal Council or Municipal Corporation.

7.The learned Government Advocate (Crl. Side) also submitted that the orders relied upon by the learned Counsel for the Petitioner are prior to the introduction of the said Rules. Now, it has been strictly insisted that those intending to run Spa shall obtain permission from the Commissioner of Municipal Council and Municipal Corporation concerned by paying the property tax, as per Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023. Only then they are permitted to grant licence to run spa.

8.In the light of the order passed by this Court in (1)Crl.O.P. (MD)No. 6614 of 2023, dated 24.03.2023 and (2)Crl.O.P.(MD)No.13739 of 2019, dated 27.09.2019, the submission of the learned Counsel for the Petitioner herein cannot be accepted, as he had entered into the lease agreement only on 10.11.2023 and he had only paid the property fees to the department of Public Health on 12.12.2023. He had not provided the licence issued by the Department of Public Health and Preventive Medicine. Hence, the contention of the learned Counsel for the Petitioner



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cannot be accepted, as he is yet to get licence from the authorities concerned under Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023. The submission of the learned Counsel for the Petitioner cannot be accepted in the light of the specific Rules issued through Government Notification, dated 12.04.2023.

9.The orders passed by this Court by two different Judges are prior to the Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023. Therefore, the Petitioner is directed to file appropriate Petition before the Commissioner of the Municipality concerned under Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023. As per the said Rule, only after getting proper permission/licence from the local body concerned, the Petitioner shall obtain permission of the Superintendent of Police, Tanjore to run Spa.

10.In the light of the orders passed by this Court earlier, if the local body as well as the Superintendent of Police granted him licence, the Respondent Police shall not harass the Petitioner. If any complaints are received against the Petitioner by the Respondents, the same order is applicable in this case also. Therefore, the Respondents Police are



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directed to issue summon with specific date and time for the Petitioner to appear before the Respondent, as per the reported ruling of ***Lalita Kumari Vs. Government of Uttar Pradesh and others [2014 (2) SCC (1)]***.

11. With the above direction, this Writ Petition is disposed of. The Petitioner is directed to file appropriate Petition before the Commissioner of Municipality concerned for licence to run Spa as per Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023. No costs.

15.02.2024

Internet: Yes
Index : Yes/No
jbr

To

1. The Superintendent of Police,
Nagercoil,
kanniyakumari District,
2. The Inspector of Police,
Kanniyakumari Police Station,
Kanniyakumari District.



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SATHI KUMAR SUKUMARA KURUP, J.

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