



W.P(MD)No.3381 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.3381 of 2024

R.Musthafa

... Petitioner

Vs.

1. The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur,
Thanjavur District.

2. The Inspector of Police (Law & Order),
Medical College Police Station,
Thanjavur,
Thanjavur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second Respondent not to disturb or interfere with my peaceful business offering health therapies under the name and style Hebel Unisex Ayurvedic Care and Herbal Steam Bath Centre, (Ayurvedic Care & Spa), Plot No.22, South 1st floor, Thiruvalluvar Nagar, No.1 Vallam Main



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Road, Neelagiri South Thottam, Thanjavur, based on the Petitioner's representation dated 23.01.2024.

For Petitioner : Mr.C.Ezhilarasu

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This Writ Petition had been filed seeking issuance of a writ of Mandamus against the Respondents 1 and 2 not to disturb and interfere with the peaceful business of the Petitioner's offering health therapies under the name and style Hebel Unisex Ayurvedic Care and Herbal Steam Bath Centre, (Ayurvedic Care & Spa), Plot No.22, South 1st floor, Thiruvalluvar Nagar, No.1 Vallam Main Road, Neelagiri South Thottam, Thanjavur.

2.The learned Counsel appearing for the Petitioner also relied on the earlier order passed by this Court in W.P.(MD)No.2226 of 2024 dated 05.02.2024.



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3.The learned Government Advocate (Crl. Side) on instructions from the Respondent Police submitted that the Petitioner had not obtained proper permission as per the amendment to the Local Bodies Act. Therefore, only after getting permission, the Petitioner shall seek appropriate relief.

4.The learned Counsel for the Petitioner submitted that the Petitioner had already filed appropriate application before the authorities concerned through e-filing.

5.In this case, it is the contention of the learned Counsel for the Petitioner that the Respondents used to interfere with the affairs of running the spa based on the complaints of the rival parties. In this regard, the Petitioner had preferred a representation on 23.01.2024 with the second Respondent. The learned Counsel for the Petitioner relied on the order passed by this Court in Crl.O.P.(MD)No.13739 of 2019, dated 27.09.2019, which is also related to running of Ayurvedic Centre in Trichy, wherein, the learned Judge of this Court had passed the following order:



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“9. In order to circumvent such situations, the following guidelines are issued:

- a) While summoning any person named in the complaint or any witness to the incident complained of, the police officer shall 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 minutes of the enquiry shall be recorded in the general diary/station diary/daily diary of the police station.*
- c) The police officer shall refrain himself or herself from harassing persons called upon for enquiry/investigation.*
- 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.”*

6.Also, the learned Counsel for the Petitioner had relied upon another order passed by this Court in CrI.O.P.(MD)No.6614 of 2023, dated 24.03.2023, wherein, this Court had held as follows:

“7.In order to meet such situations, the following guidelines are issued: 3/9 <https://www.mhc.tn.gov.in/judis> W.P.(MD) No. 2226 of 2024

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



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

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

9.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



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Urban Local Bodies Rules, 2023. Only then they are permitted to grant licence to run spa.

10.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 5/9 <https://www.mhc.tn.gov.in/judis> W.P.(MD) No. 2226 of 2024 Department of Public Health and Preventive Medicine. Hence, the contention of the learned Counsel for the Petitioner 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.

11.The orders passed by this Court by two different Judges are prior to the Rule 299 of Tamil Nadu Urban Local Bodies Rules, 2023.



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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.

12.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 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)]***.

13.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



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Tamil Nadu Urban Local Bodies Rules, 2023. No costs.

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Internet: Yes
Index : Yes/No
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To

1. The Superintendent of Police,
Office of the Superintendent of Police,
Thanjavur,
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2. The Inspector of Police (Law & Order),
Medical College Police Station,
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SATHI KUMAR SUKUMARA KURUP, J.

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