



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 23-12-2021

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**THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM**

**WP No.30803 of 2012**

**And**

**MP No.1 of 2012**

M/s.The Kancheepuram Reading Room and  
Tennis Club, Represented by its Secretary,  
K.Karunakaran,  
No.71-A, Kamaraj Street (Taluk Office Campus),  
Kanchipuram. ..

Petitioner

vs.

1.The Director General of Police,  
Police Head Quarters,  
Post Box No.601,  
Dr.Radhakrishnan Salai,  
Mylapore,  
Chennai-4.

2.Inspector General of Police,  
North Zone,  
Railway Station Road,  
Alandhur,  
Chennai – 600 016.



3.The Superintendent of Police,  
Kanchipuram.

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4.The Deputy Superintendent of Police,  
Kanchipuram.

5.The Inspector of Police,  
B2, Vishnu Kanchi Police Station,  
Kanchipuram.

6.The Inspector General of Registration,  
Santhome High Road,  
Mylapore,  
Chennai – 600 004.

(R-6 suo motu impleaded vide order  
of Court dated 23.12.2021 made  
in WP 30803 of 2012)

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents herein from harassing the petitioner-Club and its members by insisting the petitioner-Club to obtain FL2 License from the State Government for permitting its members to consume liquor brought from outside (purchased from Government approved liquor shops) within the petitioner-Club premises.

For Petitioner : Mr.T.R.Rajagopalan,  
Senior Counsel for  
Mr.P.Dinesh Kumar.

For Respondents : Mr.M.Rajendiran,  
Additional Government Pleader.



## ORDER

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The relief sought for in the present writ petition is to forbear the respondents from harassing the petitioner-Club and its members by insisting the petitioner-Club to obtain FL2 License from the State Government for permitting its members to consume liquor brought from outside (purchased from Government approved liquor shops) within the petitioner-Club premises.

2. The petitioner is the 'Kancheepuram Reading Room and Tennis Club'. The petitioner-Club was registered under the Societies Registration Act and the object of the Club is to promote Club's life and recreational activities among its members by way of providing reading room, indoor games etc. The petitioner-Club is a non-political and non-party organisation.

3. It is contended that the petitioner-Club includes men of high reputation, businessmen, professionals in particular a good strength of Advocates and in view of the same, the petitioner-Club is having wide recognition from all spheres. The petitioner-Club consists of 278 members,



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including 22 life time members and 6 honorary members. It is further contended that the infrastructure of the petitioner-Club includes Library having wide collection of books, journals, newspapers and spacious reading air-conditioned room providing its members a conducive atmosphere for relaxation and reading. It further provides its members an air-conditioned and well equipped Gym and other indoor games facilities are also provided. A separate Dining Area is provided, wherein the members alone are permitted to have their food.

4. The learned Senior Counsel appearing on behalf of the petitioner mainly contended that the petitioner is constrained to move the present writ petition on account of the fact that the respondents are frequently harassing the petitioner-Club by conducting unnecessary inspections. The learned Senior Counsel for the petitioner is of an opinion that purchasing liquor from Government approved shops and bringing the liquor bottle inside the petitioner-Club premises and consumption of liquor by the members in the Club premises, cannot be objected by the Police Authorities.



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5. It is an admitted fact that the members of the petitioner-Club are consuming liquor in the Club premises and and they are not causing any nuisance or disturbance to the other members or the public in general. Such activities of in-house consumption of liquor would not fall under the offence of nuisance. Thus, the interference by the Police Authorities is highly unwarranted and therefore, the respondents should be restrained from conducting any such unnecessary inspections in the absence of any specific complaint or otherwise.

6. The learned Senior Counsel appearing for the petitioner-Club made a submission that the petitioner-Club is not selling any liquor and they do not possess any license for selling liquor nor apply for any such license with the Competent Authorities. The petitioner-Club has no intention to get any such license and the members are consuming liquor inside the premises by purchasing the liquor bottle from outside the premises of the petitioner-Club. Ten or twenty members of the Club together purchasing liquor and consuming the same inside the premises of the petitioner-Club cannot be construed as an offence. Thus, the actions of the respondents are not in



accordance with the provisions of law and therefore, the petitioner-Club is entitled for the relief as such sought for in the present writ petition.

7. The learned Additional Government Pleader, appearing on behalf of the respondents, raised serious objections with reference to the conduct of the petitioner-Club. The learned Additional Government Pleader drew the attention of this Court with reference to the name of the petitioner-Club and its objects. The name of the petitioner-Club itself is 'Kancheepuram Reading Room and Tennis Club'. Their contention is that they will consume liquor inside the Club premises itself is not in consonance with the purpose and object for which the Club was registered.

8. The Bye-Laws of the petitioner-Club reveals that the Club is permitting the sports activities and maintaining reading room for the benefit of its members. The petitioner-Club admittedly not holding any valid license to sell the liquor or to consume the same inside the Club, which is a public place. Thus, the relief sought for in the present writ petition is liable to be rejected.



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9. The learned Additional Government Pleader made a submission that consuming liquor in the public place is prohibited and the Tamil Nadu Prohibition Act and the Rules unambiguously stipulates that even for such consumption, license is to be obtained and in the absence of any such license, possessing liquor and consuming the same in a public place is impermissible and the Police Authorities are empowered to conduct inspections and initiate all appropriate actions.

10. The learned Senior Counsel for the petitioner-Club relied on the judgment of the Hon'ble Division Bench of this Court in W.A.No.2287 of 2011 dated 22.03.2012, the Hon'ble Division Bench of this Court with certain directions stating that the respondent-Association shall not indulge in any activities, which are contrary to law and further it is stated that the Police Authorities shall not disturb the respondent-Association frequently under the guise of the inspection without there being any reliable information as to the illegal activities of the respondent-Association or its members or the guests.



11. The abovesaid general directions issued by the Hon'ble

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12. This Court is of the opinion that it would be beneficial to refer the provisions envisaged in Tamil Nadu Prohibition Act, 1937, an Act introduced for prohibition of the manufacture, sale and consumption of intoxicating liquors and drugs in the State of Tamil Nadu, which reads as under:-

*“WHEREAS it is expedient as early as possible to bring about the prohibition, except for medicinal scientific, industrial or such like purposes, of the production, manufacture, possession, export, import, transport, purchase, sale and consumption of intoxicating liquors and drugs in the State of Tamil Nadu.*

*AND WHEREAS it is desirable to give*



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*effect to the above mentioned policy by introducing it in certain selected areas in the said State and utilizing the experience gained therein for extending it to the other areas thereof;”*

13. Section 4 of Chapter II of the said Act provides prohibition of the manufacture of, traffic in, consumption of liquor and intoxicating drugs, and on a reading of the provisions and objects set out in the said Act, (as referred to supra) it is unambiguous that noble idea of prohibition was fixed as an object. Various punishments are prescribed under Section 4, for violation of the conditions stipulated therein, of course, with certain exemptions.

14. Section 4-A of the Tamil Nadu Prohibition Act enumerates “punishment for being found in a state of intoxication”, whoever is found in a state of intoxication in any public place and whoever, not having been permitted to consume any liquor or intoxicating drug in pursuance of this Act, is found in a state of intoxication in any private place shall be punished with



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imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees”. Therefore, consuming liquor in a public place where there is no license or permission is granted and such person is in the state of intoxication, then the Authorities Competent are empowered to prosecute those persons.

15. The learned Additional Government Pleader for the respondents drew the attention of this Court with reference to the Tamil Nadu Liquor (Possession for Consumption) Rules, 1996 issued in G.O.Ms.No.75, Prohibition and Excise, dated 16.04.1996. As per the above Rules, possession of liquor for personal consumption is described and the quantity also specified in the corresponding entries in the Tamil Nadu Prohibition Act.

16. The question arises whether consumption of liquor in an Association, Club or in similar places, whether permissible or not.

17. The learned Senior Counsel appearing on behalf of the petitioner-Club strenuously contended that consumption of liquor by the



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members of the Club or Association inside the premises cannot be construed as an offence, as the members are not causing any nuisance to the public.

18. In the present case, the members of the petitioner-Club are purchasing the liquor from Government approved shops and consuming the same within the premises of the petitioner-Club. Hence, the same cannot be an actionable conduct and thus, the interference by the police and insisting the petitioner-Club to get license for such consumption of liquor are unnecessary.

19. This Court is of the considered opinion that the objects set out in the bye-laws of the Associations or Clubs are relevant at the first instance. When an Association or Sports Club or similar Organisations registered their Club, Association etc., under the Societies Registration Act and the bye-laws are also registered under the provisions of the Act, then it is needless to state that the objects and purpose set out in the bye-laws must be followed scrupulously. Even in respect of violations of the bye-laws, the same would be actionable. Therefore, any Association, Club or otherwise cannot go beyond the scope of its bye-laws and the Competent Authorities under the



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Societies Registration Act are also empowered to initiate action for violation of the bye-laws. If any Society involving in any act other than that of the acts permitted under the Societies Registration Act, then such conduct are actionable for cancellation of registration by invoking the provisions of the Societies Registration Act by the Competent Authorities.

20. Therefore, it is not as if any Club or Association can register their Organisation under the Tamil Nadu Societies Registration Act and carry on their activities in their own way or involving in unconnected activities, which all are not approved under the bye-laws, which is registered under the Societies Registration Act.

21. In the present case, the petitioner-Club is the Society registered under the Societies Registration Act. The name of the petitioner-Club itself reveals that 'Kancheepuram Reading Room and Tennis Club'. The bye-laws also indicates the objects in clear terms. Thus, the petitioner-Club is bound to confine their activities with reference to the bye-laws registered under the Registration Act. In the event of expansion of activities, then



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license or permission are required and even the bye-laws require amendment, which must be approved by the Competent Authorities under the Societies Registration Act.

22. In this regard, it is relevant to consider Section 37 of the Tamil Nadu Societies Registration Act, 1975, which states the cancellation of registration and reads as under:-

*“Cancellation of Registration.--When an inquiry has been held under section 36 of registration, the registrar may, if he is satisfied—*

*(a) that the registered society has contravened any of the provisions of this Act or the rules made there-under; or*

*(b) that the registered society is insolvent, or must necessarily become so ; or*

*(c) that the business of any such registered society is conducted fraudulently or not in accordance with the bye-laws or the objects specified in*



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*the memorandum filed with the Registrar under section 6, after giving in such manner, as he thinks fit, previous notice in writing to the registered society, specifying briefly the grounds of the proposed cancellation and after giving an opportunity to the registered society to show cause why the cancellation should not be made, cancel the registration of the registered society, and communicate the order of cancellation forthwith to the registered society by registered post.”*

23. Section 38 of the Act contemplates 'cancellation of registration of society carrying on unlawful activities'. Therefore, the Competent Authorities under the Societies Registration Act, are empowered to conduct inspection and ascertain whether the Society is functioning in accordance with the bye-laws or not and if there are violations or the business of the Society is conducted not in accordance with the bye-laws or the objects specified in the memorandum filed with the Registrar under Section 6, then all actions can be initiated for the purpose of cancellation of registration for affording opportunity to the registered Society.



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24. The above provisions are unambiguous that every registered Society is bound to function in accordance with the provisions of the Act and Rules and their activities must be in accordance with the bye-laws of the Society, which is approved by the Competent Authorities under Section 6 of the Registration Act. Therefore, it is not as if every such Club or Association shall expand their activities or conduct other activities, which all are not stipulated in the bye-laws registered under the Registration Act.

25. One of the point raised by the learned Senior Counsel appearing on behalf of the petitioner-Club is that the Police Authorities are insisting the petitioner to get license under the relevant Rules for running a Bar Room or for consumption of liquor.

26. The Tamil Nadu Liquor (License and Permit) Rules, 1981, wherein Rule 5 states that “no person or institution may possess any quantity of liquor or medicated wine or sacramental wine except under and in accordance with the terms and conditions of a licence issued under these



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rules”. Chapter IV deals with Rules relating to the grant of licenses, which stipulates 'licenses for liquor used for consumption'. F.L.2 license is stipulated 'license for possession of liquor by a non-proprietary Club for supply to members'. Even for consumption of liquor in a Club or Association, a license must be obtained for possession of liquor and for supply to its members inside the premises. Further more, the Club or Association if registered under the Societies Registration Act, then the bye-laws must permit for conduct of such activities and such bye-laws must be approved under Section 6 of the Societies Registration Act.

27. This Court is of the considered opinion that the Tamil Nadu Prohibition Act, more specifically, Section 4 impose complete 'prohibition of the manufacture of, traffic in, and consumption of liquor and intoxicating drugs'. Section 4(1)(j) enumerates that

*“consumes or buys.--*

*(i) any liquor other than such liquor as may be specified by the State Government, by notification, in their behalf; or*

*(ii) any intoxicating drug.”*



Section 4(1)(k) states that

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*“whoever, allows any of the acts aforesaid upon premises to his immediate possession, shall be punished”.*

Therefore, buying and consumption itself is prohibited. It is an absolute prohibition imposed under the Tamil Nadu Prohibition Act, 1937 and the Tamil Nadu Liquor Retail Vending (in Shops and Bars) Rules, 2003, regulates the liquor retail vending both in shops and bars, Tamil Nadu Liquor (License and Permit) Rules, 1981 deals with grant of license and possession of liquor and licenses for liquor used for consumption.

28. Therefore, the law imposes total prohibition. Thus, buying, selling, consumption and possession, all are regulated under various Rules and Regulations. Thus the legal position is that the prohibition is the law and buying, selling, possession and consumption are regulated by the Rules in force. Therefore, consumption of liquor when regulated under the Rules, then the consumption must be in accordance with the provisions of the Act and Rules and it is not at the choice of the consumers of liquor. When there is total prohibition imposed under law, usage of liquor is regulated through



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Rules, then the Rules should be scrupulously implemented for the purpose of buying, selling, possession and consumption of liquor. Possession and consumption of liquor in a Club or Association as per the Rules may be done only by obtaining license from the Competent Authorities. In the absence of license, it is to be construed as an offence under the Prohibition Act and under the Rules in force.

29. There is a growing trend of filing writ petitions before the High Court, seeking general relief in the nature of an injunction. The general allegations made by the petitioner are that the Police Authorities are frequently conducting inspections and disturbing the activities of these Clubs and Associations registered under the Societies Registration Act. Conducting the act of an inspection by the Competent Authorities at no circumstances be prevented. In the event of granting such general relief, the Competent Authorities are prevented from performing their lawful exercise of powers under law. Beyond this, the beneficiaries of such general orders are misusing it one way or the other to threaten the Police and Public Authorities and contempt applications are also filed. Thus Courts are expected to be cautious



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in respect of such general reliefs sought for in the writ petitions. In the event of establishing a definite cause of action regarding the excess exercise of power by the police and public authorities, appropriate orders are to be passed by the High Court. Mere statement by the Associations and Clubs that they are conducting only lawful activities cannot be trusted upon. Mere statement in the affidavit cannot be a ground for granting such general relief and the Authorities Competent empowered to conduct inspections must be allowed to conduct inspections if they have any reasonable suspicion, reliable information or complaint or otherwise. Thus Clubs and Associations registered under the Societies Registration Act, are carrying on their activities beyond the objects set out in their respective bye-laws and there are many such complaints in the public domain. Thus, Courts are expected to exercise restraint in passing such general orders in the interest of public.

30. Scrupulous implementation of law is the duty mandated on the Executives. Thus, any prevention from the other pillar of the Constitution i.e., Judiciary will no doubt cause prejudice for effective implementation of law for maintenance of an orderly Society. Thus, in the absence of established



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cause of action, no relief needs to be granted in respect of such cases where people generally claim that they are always doing lawful activities.

Presumption or mere statement is insufficient. Beyond that actions are imminent for law enforcement. Thus, at no circumstances, the lawful performance of public duties can be prevented by granting such general directions to the Authorities. If such reliefs are granted, it is a threat to the democratic principles with reference to the constitutional mandates, principles and philosophy. Thus, the lawful exercise of power must always be allowed. Conducting inspections on suspicious circumstances, on informations or complaints is the primary duty of the Public Authorities and Police Officials. Thus, they are bound to conduct such inspections, so as to prevent any illegal activities in any such Clubs, Associations, Spa, Massage Centre, Recreation Clubs etc. No doubt, largescale allegations against these Spa, Clubs, Associations, Recreation Clubs etc., are in the public domain and such allegations are resulting in various consequences in the Society. It creates problems in the families and also in the Society at large. Thus, it is duty mandated on the Executives to ensure that such illegal activities are effectively controlled by initiating all appropriate actions in the manner



known to law.

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31. The learned Senior Counsel appearing on behalf of the petitioner made an attempt to justify the actions of these Club members regarding consumption of liquor inside the Club by purchasing the liquor bottles from the Government approved shops. As discussed above, such conduct violates the bye-laws of the Club consequently violates the provisions of the Societies Registration Act and further in violation of the Tamil Nadu Prohibition Act and the relevant Rules for the purpose of buying, selling, possession and consumption of liquor. Thus, the law imposes complete prohibition of liquor and the Rules grant permission for the purposes specified in the Rules. Accordingly, buying, selling, possession and consumption of liquor all regulated under the Rules and any violation in this regard is an offence and the persons committing such illegalities are liable to be prosecuted under the relevant Statutes and the Rules in force.

32. In view of the facts and circumstances, this Court is inclined to pass the following orders:-



(1) The relief, as such, sought for in the present petition stands rejected.

(2) The first respondent-Director General of Police is directed to constitute trained Special Squads in each District and in Cities across the State of Tamil Nadu under the leadership of the respective Superintendents of Police and the respective Commissioners of Police for the purpose of conducting inspections in Social Clubs, Associations, Spa, Recreation Clubs, Massage Centres etc., and initiate all appropriate actions, in the event of identifying any commission of offence or illegality.

(3) On initiation of any such action, against any such Organisations, Social Clubs, Associations etc., the actions initiated shall be communicated to the Competent Jurisdictional Authorities under the Tamil Nadu Societies Registration Act, along with the details of allegations and action taken, enabling those Authorities to initiate further actions under the provisions of the Tamil Nadu Societies Registration Act, 1975 and Rules or under the relevant provisions of law if the registration of Associations and Clubs are done under different Statutes.

(4) The first respondent-Director General of Police is directed



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to issue all necessary instructions/guidelines to the Subordinate Police Authorities to develop an effective coordination with the Registration Department and other connected Government Departments, so as to ensure effective and efficient implementation of the Statutes for the purpose of prosecuting the offenders dealing with the illegalities simultaneously under various relevant Statutes.

(5) The first respondent-Director General of Police is directed to issue circulars/instructions to all Police Officials across the State of Tamil Nadu and communicate the copy of such circulars/instructions to the Registration Department and other connected Government Departments and to the local bodies (Corporations, Municipalities and Panchayats) for initiation of appropriate actions against the licenses granted for such establishments by the local bodies as per the terms and conditions and under the provisions of law.

(6) The abovesaid exercise of issuing circulars/instructions is directed to be done by the first respondent-Director General of Police, within a period of four weeks from the date of receipt of a copy of this order.



33. With the abovesaid directions, the writ petition stands

disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

**The Registry is directed to post the matter before this Court under the caption 'For Reporting Compliance' on 24.01.2022.**

**23-12-2021**

Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

To

1. The Director General of Police,  
Police Head Quarters,  
Post Box No.601,  
Dr.Radhakrishnan Salai,  
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**S.M.SUBRAMANIAM, J.**

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