

SUPDT. OF POLICE (NORTH)

No. 6002/SPN/GR/09

Dated. 31/08/09 Time.....

**OFFICE OF THE SENIOR SUPERINTENDENT OF POLICE (L&O)
PUDUCHERRY**

A29 (SSPC (20)-20/09-281


Dated: 31.08.09.

NOTE

Please find enclosed a direction from the Hon'ble High Court of Judicature at Madras, dated 23.01.07, which is being furnished by some Recreation Clubs indulging in gambling activities. Even a casual perusal of the said direction clearly reveals that the Police has powers to suspend or close any Recreation Club if they do not confine their activities as is permissible in law. If specific information is received, after recording the same in the Station records, the Police are empowered to enter the Club premises, investigate and question the members and proceed further according to the gravity of the offence or the violation detected, as the case may be.

2. Hence, it is surprising that the Police Officers in the past were hiding behind this direction of the Hon'ble High Court, which they had interpreted in support of their inaction. Such intentional or lackadaisical approach to policing has resulted in public criticism.

3. The SDPOs shall instruct all officers in their jurisdiction that inaction or dereliction in this regard would invite severe punitive action.


(Dr. B. SRIKANTH)
Senior Supdt. of Police (L&O)
Puducherry

To

All SDPOs in Puducherry District.

Copy for info. to :

The Director General of Police, Puducherry.

All CIs for h/a


SP(North)



INSPECTOR OF POLICE
GRAND BAZAAR CIRCLE
PUDUCHERRY

Wale Officer

Signature

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-1-2007

CORAM

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE K.CHANDRU

W.A.No.40 of 2007
and
M.P.No.1 of 2007

French City Sports and
Recreation Club
(Regd. No.366/2001)
represented by its
President
E.Bastian
No.270, Kamaraj Saalai
Pondicherry 605 013.

.. Appellant

vs

1.The Inspector General of Police
Pondicherry
2.The Station House Officer
SHO, D.Nagar Police Station
Jipmer, Pondicherry.

.. Respondents

Writ appeal preferred under Clause 15 of the Letters Patent against the order dated 21.11.2006 passed in W.P.No.12773 of 2006 presented under article 226 of Constitution of India, praying this Court, to issue a Writ of Mandamus, forbearing the respondents from interfering with the smooth functioning and operation of the petitioner club.

For Appellant : Mr.Yashod Vardhan
Senior Counsel
for Mr.V.S.Srikrishnan
For Respondents : Mr.T.Murugesan
Government Pleader
(Pondicherry)

JUDGMENT

(Judgment of the Court was delivered by THE HON'BLE
THE CHIEF JUSTICE)

Admit. Learned Government Pleader (Pondicherry) waives notice for the respondents.

Ai 0009539

2. By consent, the appeal is taken up for hearing.

3. The appeal is directed against the order of the learned Single Judge dismissing the writ petition filed by the appellant.

4. The prayer of the appellant is for a mandamus to forbear the respondents from interfering with lawful activities of the appellant Recreation Club including the facilities provided for playing games namely chess, carom, table tennis, etc., and especially the game of playing cards which is not involving any element of the Pondicherry Gaming Act, 1965.

5. The case of the appellant is that the appellant in the course of its activities, has been providing indoor games namely table tennis, carom, playing cards, chess, etc., and also outdoor games like badminton, tennis, volley ball, etc., and the members are only allowed to play. According to the appellant, as far as the game of playing cards is concerned, only the game of rummy is allowed, which is not a game entirely of chance, and as held by the Apex Court, it is a game of skill and not covered by the Gambling Act.

6. The grievance of the appellant is that the respondents are constantly disturbing and conducting enquiries and making visits to the recreation club alleging that gambling activity is being permitted in the guise of playing cards more particularly rummy, and the intervention of the respondents has been affecting the peaceful functioning of the recreation club and poses threat to the continuance of the club itself as the members now fear to come to the center because of the continuous intervention by the Police officials in the peaceful functioning of the recreation club.

7. On behalf of the respondents, a counter affidavit has been filed by the Sub Inspector of Police, 'D' Nagar Police Station, Pondicherry. It is inter alia contended that there were several complaints over telephone and even written petitions complaining of gambling activities inside the appellant's premises involving wagering and betting for monetary gains, and therefore, on account of such complaints, the police was constrained to conduct surprise search of the appellant's premises on couple of occasions; but, the search was not intended to disturb the appellant's club, and it was only on account of the complaints from public that wagering and betting for gambling is carried out in the appellant's premises.

8. Learned Counsel for the appellant drew our attention to an order passed by this Court in W.P.No.30474 of 2004 whereby in a similar set of facts, this Court has made certain directions. Since the facts in issue in the present matter are also identical, we are inclined to pass the following directions as given in W.P.No.30474 of 2004.

(1) So long as the appellant's Club or its members carry on lawful activities, the respondents shall not interfere. However, if the respondents have specific information or bona fide suspect that the activities carried on by the appellant club or its members, are not in accordance with

the statutory provisions, or the respondents have reason to believe that there is a violation of the provisions of the Gaming Act or any other enactment, it is well open to the respondents or their subordinates to enter the appellant's club premises, conduct investigation, question those who involve themselves in such activities and take appropriate action.

(2) It is open to the appellant or its members to defend themselves in case of any prosecution levelled and it is equally open to them to challenge the action of the respondents, if it is not in accordance with law.

(3) The respondents or their subordinates or their men shall not be entitled to enter into the premises or question the office bearers or other members of the club so long as the club members confine their club to lawful activities as is permissible in law and if specific information is received, after recording the same in the station records, the respondents may enter the club premises, investigate and question the members and proceed further according to the gravity of the offence or the violation detected, as the case may be.

(4) If for any valid reason or in enforcement of any provision of law, the activities of the appellant's club have to be suspended or closed, the respondents shall issue an order in writing to the said effect and without issuing a written order, the respondents shall not orally direct closure of the petitioner's recreation club.

9. In view of the above, the order of the learned Single Judge is set aside. This writ appeal is accordingly allowed with no order as to costs. Consequently, the connected MP is closed.

To:

1. The Inspector General of Police
Pondicherry

2. The Station House Officer
S.M.O., D. Nagar Police Station
Jipmer, Pondicherry.

1 CC TO SPL. G.P., SR 4106

1 CC TO MR. V. S. SRI KRISHNAN, ADVOCATE SR 4151

Nav/

W.A.No.40 of 2007

KSJ(CO)

Dt: 23-1-2007

BP/2.2

Sd
Asst. Registrar

(True copy)

Sub Asst. Registrar

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| HIGH COURT OF JUDICATURE MADRAS | |
| E.R. No. | 4151 |
| Carbon Copy application | |
| made. 23/4 | 2007 |
| Application Returned... | 200 |
| Application Represented... | 200 |
| Copy made ready... | 2007 |
| Copy Delivered... | 2007 |
| Section Officer Current Section | |