



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

DATED THIS THE 25<sup>TH</sup> DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

**WRIT PETITION No.22854/2022 (GM-RES)**

**BETWEEN:**

SRI SIRAGALLI LAKSHMIDEVI RECREATION CLUB (R)  
T. MEGADAHALLI GRAMA,  
TALAKADU HOBLI,  
T. NARASIPURA TALUK,  
MYSORE DISTRICT - 571 122  
REPRESENTED BY ITS SECRETARY  
SRI SHANTARAJU B.  
(REGISTRATION UNDER KARNATAKA  
SOCIETY ACT, 1960)

... PETITIONER

(BY SMT. RESHMA K.T., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
BY ITS SECRETARY,  
HOME DEPARTMENT,  
VIDHANA SOUDHA,  
BANGALORE - 560 001.
2. THE SUPERINTENDENT OF POLICE,  
MYSORE DISTRICT,  
MYSORE - 571 301.
3. THE DEPUTY SUPERINTENDENT OF POLICE  
NANJANGUD - 571 301,  
MYSORE RURAL.
4. THE CIRCLE INSPECTOR OF POLICE  
TALAKADU - 571 122,  
MYOSRE DISTRICT.

5. THE SUB INSPECTOR OF POLICE  
TALAKADU - 571 122,  
MYSORE DISTRICT.

... RESPONDENTS

(BY SRI K.S. ARUN, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DECLARE THAT THE PETITIONER IS NOT REQUIRED TO OBTAIN ANY PERMISSION OR LICENSE UNDER THE PROVISIONS OF LICENSING AND CONTROLLING OF PLACES OF THE PUBLIC AMUSEMENT ORDER TO PLAY INDOOR GAMES SUCH AS RUMMY (CARD GAME), CHESS, CAROM, BILLIARDS/SNOOKER, SKILLED GAMES AND OTHER INDOOR AND OUTDOOR GAMES FOR THE BENEFIT OF ALL ITS MEMBERS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:-

**ORDER**

The petitioner in this writ petition is seeking direction to the respondents to declare that the petitioner is not required to obtain any permission or licence under the provisions of the Licensing and Controlling of Places of the Public Amusement Order to Play Indoor Games such as Rummy (Card Games), Chess, Carom, Billiards/Snooker, Skilled games and other indoor and outdoor games for the benefit of all its members and sought for a mandamus directing the

respondents not to insist the petitioner to obtain license from the provisions of Licensing and Controlling of Places of the Public Amusement Order with the Recreational Activities to be carried on by the members of the petitioner association situated at T.Megadahalli Grama, Talakadu Hobli, T.Narasipura Taluk, Mysore District.

2. Brief facts leading to the filing of this writ petition are that, petitioner is a recreation club registered under the Karnataka Societies Registration Act, 1960 with the Registrar of Societies, Mysore vide registration No.DRMV/SOR/22/2022-2023 dated 13/4/2022.

3. According to the petitioner after registration, the petitioner approached the respondent Nos.2 to 5 to permit recreational activities i.e., indoor games such as Rummy (card games), Chess, Carom,

Billiards/Snooker, Skilled games and other indoor and outdoor games to all its members within the premises of its association. However, the respondents have refused to permit the petitioner to run the recreational activities stating that they require licence to carry out the activities under the provisions of Karnataka Police Act and are creating unnecessary obstructions for opening the recreation association and to run the recreational activities by the petitioner/recreation club to its members.

4. The State has not filed any objection to the writ petition.

5. Heard learned counsel for the petitioner, Smt.Reshma K.T. and Sri K.S.Arun, learned High Court Government Pleader for the respondents.

6. Learned counsel on both sides submit that *lis* in the present petition is squarely covered by the

judgments of the Apex Court in the case of ***The State of Andhra Pradesh Vs. K. Satyanarayana and others*** reported in ***[AIR 1968 SC 825]*** (Satyanarayana) and the Division Bench of this Court in the case of ***Sanna Adike Belegarara Recreation Association & others vs. State of Karnataka & others [ILR 2000 Kar 4822]***, (Sanna Adike Belegarara Recreation Association).

7. Having heard learned counsel for the parties and perused the material on record as well as the judgments stated supra, it is declared by the Hon'ble Apex Court in the case of ***K. Satyanarayana*** stated supra that the Rummy requires certain amount of skill because the fall of the cards has to be memorized and the building up of Rummy requires considerable skill in holding and discarding cards and it is mainly a game of skill and at paragraph No.12 has held as under:

"12. We are also not satisfied that the protection of Section 14 is not available in this case. The game of Rummy is not a game entirely of chance like the 'three-card' game mentioned in the Madras case to which we were referred. The 'three card' game which goes under different names such as 'flush', 'brag' etc. is a game of pure chance. Rummy on the other hand, requires certain amount of skill because the fall of the cards has to be memorised and the building up of Rummy requires considerable skill in holding and discarding cards. We cannot, therefore, say that the game of Rummy is a game of entire chance. It is mainly and preponderantly a game of skill. The chance in Rummy is of the same character as the chance in a deal at a game of bridge. In fact in all games in which cards are shuffled and dealt out there is an element of chance because the distribution of the cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack. From this alone it cannot be said that Rummy is a game of chance and there is no skill involved in it. Of course, if there is evidence of gambling in

some other way or that the owner of the house or the club is making a profit or gain from the game of Rummy or any other game played for stakes, the offence may be brought home. In this case, these elements are missing and therefore we think that the High Court was right in accepting the reference as it did."

8. The Division Bench of this Court in the case of **Sanna Adike Belegarara Recreation Association** stated supra, has held as under:

"As far as the judgment in Rama Recreation Associations case interpreting the definition under Sections 2(14) and 2(15) of the Karnataka Police Act is concerned, no exception can be taken to the view expressed by the learned Judge. But as our learned brother Justice Thakur has pointed out in the reference order, there is every possibility of the public gaining entry on payment of certain fee to these societies registered ostensibly for the purpose of running recreational clubs for members. The Scope for misuse of the premises and infringement of the objectives with which the societies are formed cannot be

ruled out. But, having regard to the clear cut definitions under Sections 2(14) and 2(15) of the Karnataka Police Act, the expression "Public" therein cannot be reasonably construed to cover members of the club or their genuine guests. The hall-mark of a Member's Club or an Association of members is that all the members have an equal stake in it, their internal management vests with the members and those who are in effective management are agents or trustees of the members. We therefore find no legal basis to doubt the correctness of the view expressed in Rana Recreation Association case. We also agree with the learned referring Judge that it is desirable to evolve a regulatory mechanism to ensure that the societies running the clubs do not transgress their limits and indulge in objectionable activities. While separate legislation may be necessary for this purpose, the provisions in Karnataka Police Act and other allied enactments and the provisions of Cr.P.C. could be pressed in to service to check the unlawful activities that may be indulged therein and to prevent public nuisance. The authorities concerned can very well verify



whether the so-called Members' Club is only a facade for public amusement and if there is enough material in support of such conclusion, action as per law can be taken. At the same time, it is made clear that the police authorities concerned should not take law into their own hands and harass even genuine clubs carrying on bonafide activities by organising frequent raids. While surveillance and checks cannot be ruled out, the endeavour should be only to ensure that unlawful activities amounting to offences are not carried on in the guise of running recreational clubs or associations. For instance, in one of the Writ petitions, a stand has been taken by the respondents that even playing the game of Rummy amounts to gambling activity. We are surprised that such a stand is taken even thirty years after the decision of the Supreme Court. At the same time, as observed by the Supreme Court in that very decision (referred to supra), if there is betting or some other form of gambling associated with the Game or Rummy is allowed to be played in the club as a source of making profit or gain by certain individuals running the show, it might perhaps cross the dividing line

and fall in the objectionable zone of gambling house. Ultimately, we would like to stress that the authorities concerned should not act with a presumption that every society registered for the purpose of running the club will be indulging in unlawful activities and with the realisation that the power of surveillance and raids is to be used in bona fide exercise of powers to enforce the provisions of the Act, but not to harass genuine clubs carrying on lawful activities."

9. The Co-ordinate Bench of this Court, in the case of **Rama Recreation Association vs. Commissioner of Police [ILR 1993 Kar. 3357]** has also held as under:

"3. In a Club, there may be any diversion or game but that by itself will not convert the place into the place of public amusement. If, at such a place music, singing, dancing or any diversion or game or means of carrying on the same is provided to which the public are admitted, only then it will be a place of amusement. Similarly, regarding the place of public entertainment there should be a

provision to admit the public, where food or drink is supplied for consumption. A Club is a place to which only its members are permitted to engage in any diversion or recreational activities etc. The members of the public are not entitled to demand any entrance either freely or on payment of any sum. The entry to the Club is restricted by the terms of the bye-laws and it is a well-known fact that it is always restricted to its members. Therefore, such an Association as that of the petitioner, cannot be compelled to obtain a licence under the Licensing Order. Consequently, respondents are directed not to interfere with the lawful activities of the petitioner-Association. However, it is open to the police to verify and find out the nature of the activities, so that the Club premises may not be used for any illegal activities."

*(emphasis supplied)*

10. In light of the catena of judgments stated supra and in view of sub-clause (14) and (15) of Section 2 of the Karnataka Police Act, 1963 where the licencing of any place of the said order is required only

when it is a place of public amusement or it is public entertainment.

11. In the present case, the club is an association for providing recreational activities to its members and the members of the public are not entitled to demand any entrance either freely or on payment of any sum and the entry is restricted as per the terms of the byelaws to its members only. Therefore, in light of the settled proposition of law that it is not necessary to obtain any permission or licence for the purpose of carrying on recreational activities by any club or association as observed in the judgments stated supra, the respondent police authorities insisting upon the petitioner to get licence under the provisions of the Karnataka Police Act, is arbitrary and unreasonable and calls for interference. The authorities concerned should not act with a presumption that every society or association or club

registered for the purpose of running the club will be indulging in unlawful activities and with the realization that the power of surveillance and raids is to be used in bona fide exercise of powers to enforce the provisions of the Act, however, it is open for the respondent-police authorities to verify and find out the nature of the activities, if need arises, so that the club premises may not be used for any illegal activities. Consequently, the respondents are directed not to interfere with the lawful activities of the petitioner's association.

12. With the aforesaid observation, the writ petition stands ***disposed of.***

**SD/-  
JUDGE**

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