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**Calcutta High Court  
In the Circuit Bench at Jalpaiguri**

**W.P.A. No. 394 of 2019**

Indian Poker Association & Anr.  
-Vs.-  
The State of West Bengal & Ors.

Mr. Amalesh Roy,  
Mr. Mrigendra Chaturedi,  
Mr. Debarshi Dhar  
...for the petitioners  
Mr. Hirak Barman,  
Mr. Bikramaditya Ghosh  
...for the State

Mr. Kumar Shantanu  
...for the respondent no. 5

The grievance of the present petitioners is that, despite the petitioner no 1 being a legally registered association and the petitioner no. 1 having rented a room for its members to play the game of poker in an hotel, being Hotel Tourist Inn, Sevoke Road, Siliguri, the police authorities are unnecessarily harassing the petitioners during such games on the false pretext that there is a legal bar to play poker.

Learned counsel for the petitioners relies on a judgment dated July 02, 2015, passed by a learned Single Judge of the principal Bench, wherein it was held, in consonance with the definition of "gaming or gambling" under Section 2(1)(b) of the West Bengal Gambling and Prize Competitions Act, 1957, that poker was not included either in gaming or gambling and, therefore, if anyone indulges in playing such game

without indulging in any other overt act, which could be treated as amounting to an offence, the same does not attract police interference.

In the said judgment, it was directed that playing of poker shall not result in unnecessary harassment of the players by the respondents therein.

Learned counsel also relies on Section 2(1)(b) of the Act of 1957, from which it appears that that the game of 'poker' along with certain other games was specifically excluded from the definition of "gaming or gambling" in the said provision.

Learned counsel for the respondents submits that, in the garb of poker, gambling was going on in the hotel room-in-question, for which the police had to interfere.

However, it does not appear that there is anything on record to indicate that the police had any specific information or complaint of the petitioners indulging in any overt illegal act to interfere with the ongoing games in the room-in-question in the hotel being played by the petitioners and/or their members.

Since the game of poker *ipso facto* is not included within the purview of the West Bengal Gambling and Prize Competitions Act, 1957, without there being a specific complaint with regard to the petitioners resorting to gambling or other illegal activity in the name of poker, there cannot be any occasion for the police to interfere with such game.

Accordingly, W.P.A. No. 394 of 2019 is disposed of by directing the respondents not to interfere with the games of poker going on between the members of the

petitioner no. 1 at the rented room at the Hotel Tourist Inn at Sevoke Road in Siliguri, unless there is a specific complaint against the petitioners that they are resorting to gambling or undertaking any unlawful activity in the garb of the game of poker in the said room.

It is made clear that in the event of any such complaint is received by the police authorities, it will be open to the police to investigate such complaint, but that would not give the police an unlimited licence to enter into the room-in-question and go on a rampage in the garb of investigation, without a specific arrest warrant or a permission from the appropriate authorities to enter into the room and inspect what is going on inside it.

There will be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be made available to the parties, upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)