

Indian Poker Association (Ipa) vs The State Of Karnataka on 8 October, 2013

Author: A.S.Bopanna

Bench: A.S.Bopanna

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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 8th DAY OF OCTOBER 2013

BEFORE
THE HON'BLE MR. JUSTICE A.S.BOPANNA

WRIT PETITION NOS.39167 TO 39169 OF 2013 (GM-POLICE)

BETWEEN:

INDIAN POKER ASSOCIATION (IPA)
A SOC. REGD. UNDER THE
KARNATAKA SOCIETIES ACT AND
HAVING ITS OFFICES AT
NO.G-03, SRI ASHRAM VIEW
ENCLAVE, 15/3, K.S.GARDEN
TAMMARAI KANNAN ROAD
ULSOOR
BANGALORE - 560 008

ALSO AT
YMIA NO.5, AASAYE ROAD
BANGALORE - 560 042

AND AT
HI-5, RECREATION CLUB
NO.462, III FLOOR, KRISHNA
TEMPLE ROAD, INDIRANAGAR
BANGALORE - 560 038

AND AT
ROYAL FLUSH SPORTS AND
CULTURAL ASSOCIATION
NO.9 (OLD NO.11/1)
4TH MAIN ROAD, I CROSS
CHAMRAJPET, BANGALORE-18
REP. BY ITS HON.SECRETARY
MR.SURESH K.NADUVATH

... PETITIONER

(BY SRI.RAVI B.NAIK, SR. ADV. FOR SRI.B.S.RAGHU PRASAD,
ADV.)

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AND:

1. THE STATE OF KARNATAKA
DEPT. OF HOME
VIKASA SOUDHA
VEEDHAN VEEDHI
BANGALORE - 560 001
REP BY ITS PRL. SECRETARY
2. THE COMMISSIONER OF POLICE
BANGALORE CITY
INFANTRY ROAD
BANGALORE - 560 001
3. THE DY. COMISSIONER OF POLICE
BANGALORE WEST
ABOVE ULSOOR POLICE STATION
ULSOOR, BANGALORE - 560 008
4. SRI.SHIVAMURTHY
THE ASST. COMMISSIONER OF
POLICE, PULAKESHINAGAR
SUB-DIVISION
PULAKESHINAGAR POLICE STATION
BANGALORE CITY - 560 005 ... RESPONDENTS

(SRI.E.S.INDIRESH, HCGP FOR R1 TO R3
R4 - SERVED)

These writ petitions are filed under Articles 226 and 227 of the Constitution of India praying to issue a writ in the nature of mandamus as against the respondents from causing interference to the activities of the petitioner in conducting poker games / tournaments in the address as stated in the cause title and etc.

These Petitions coming on for Preliminary Hearing in 'B' Group this day, the Court made the following:-

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ORDER

The petitioner is before this Court seeking for issue of mandamus and to direct the respondents not to interfere with the activities of the petitioner in conducting poker games / tournaments in their premises. The petitioner is also seeking for direction to respondent Nos.2 to 4 not to interfere with the activities being conducted by the petitioners. Further, a direction has been sought to hold an enquiry against the 4th respondent for the illegal act of trespassing and exercise of power without authority.

2. Heard the learned Senior counsel appearing for the petitioner and the learned Government Advocate and perused the petition papers.

3. The petitioner is stated to be a registered Society and is engaged in the activity of providing avenue for its members for the purpose of recreation. In that regard, one of the games being conducted in the club premises is that of poker. Though no license is required for playing such game of skill, the petitioner, by way of caution, is stated to have sought for permission and the same has been granted to the petitioner. The certificate dated 21.3.2012 issued is at Annexure-D to the petitions. The grievance at present is that the 4th respondent, without authority and despite the petitioner adhering to law has been interfering with the conduct of the games in the premises. It is in the circumstance, the petitioner is before this Court.

4. The respondents have filed their objections statement. It is not disputed that in respect of the game of skill to be played in recreational clubs, no license is required. It is however contended that, in the guise of having recreational activities, when it is found that the members as also the club are indulging in illegal activities, appropriate action is taken in accordance with law. In the instant case, it is submitted that, on finding that there has been certain illegal activities, the case has been registered in Crime No.217/2013 of Pulakeshinagar police station for the offences punishable under Sections 79 and 80 of the Karnataka Police Act. It is therefore contended that the action initiated against the petitioner is justified.

5. Having taken note of the rival contentions, since the respondents have relied on the FIR and the further proceedings that is initiated in Crime No.217/2013, I am of the opinion that the details of the same need not be adverted to herein, in as much as, the concerned persons would be entitled to put up their defense in the appropriate proceedings and it will be considered by the appropriate forum. The only question for consideration herein is as to whether the prayer with regard to the interference and the action to be taken against the 4th respondent requires consideration herein.

6. Having already taken note of the fact that in respect of the game of poker if played as a game of skill, license is not contemplated and further keeping in view the fact that permission in this case has been obtained in that regard, certainly, the petitioner would be entitled to conduct such games, provided, the same is in accordance with law. However, it is to be clarified that, if the respondents have any definite information with regard to the illegal activities, only in such event, the respondents would be entitled to take action in accordance with law and the same shall not ordinarily be indulged in, to prevent the lawful activities of the petitioner.

7. In so far as the grievance of the petitioner with regard to the 4th respondent, I am of the opinion that the allegations as made against the 4th respondent, at this juncture need not be gone into in the instant petitions, more particularly, in the circumstance when the respondents have adverted to certain legal proceedings that have been taken by them. However, if the petitioner has any specific grievance against the 4th respondent or any other police officer who may interfere with the activities of the petitioner without authority of law, it would always be open for the petitioner to make appropriate representation to the next higher authority of the police concerned including a representation to the Commissioner of Police bringing to the notice of the higher authority the actual grievance of the petitioner against the concerned police officer. If such representation is made by the petitioner, certainly such higher authority shall look into the same as expeditiously as possible and find out if any action is required or not in that regard.

In terms of the above, petitions stand disposed of.

SD/-

JUDGE RV