



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD) No.10293 of 2018

Arulmigu Kali Jakkammal Thirukovil,
belongs to Kattunayakan Schedule Tribes Community,
North Valliyoor, Radhapuram Taluk,
Tirunelveli District, rep. By its President and Dharmakartha
V.Selvam ... Petitioner

Vs.

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
2. The Deputy Superintendent of Police,
Valliyoor,
Tirunelveli.
3. The Inspector of Police,
Valliyoor Police Station,
Valliyoor, Tirunelveli District. ... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus directing the respondents to give permission and protection to conduct the Kodai Festival of Arulmigu Kali Jakkammal Thirukovil, Valliyoor from 21.05.2018 to 23.05.2018 about 7.00 p.m. by considering the representation of the petitioner dated 17.04.2018.

For Petitioner	: Mr.H.Arumugam
For Respondents	: Mr.P.Kannidevan Additional Government Pleader

O R D E R

The petitioner has come forward with this Writ Petition seeking a Writ of Mandamus directing the respondents to grant permission and necessary police protection to perform the cultural programme (ie.,) Adal Padal Dance Programme in the Kodai Festival of Arulmigu Kali Jakkammal Thirukovil, Valliyoor from 21.05.2018 to 23.05.2018 about 7.00 p.m., on the basis of petitioner's representation dated 17.04.2018.



2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. Taking into consideration the facts of the present case and the fact that such programmes are being organized and conducted in every village all over the state, this Court is of the view that preventing the petitioner from conducting such programme in this particular village will amount to discrimination.

4. The learned counsel appearing for the petitioner submitted that this Court, by the order dated 24.07.2017, in WP(MD)No.13517 of 2017, passed an order, directing the respondent therein to consider the representation of the petitioner, subject to certain conditions and any other reasonable restrictions that may be imposed by the respondent in the interest of public and to preserve the law and order. The conditions imposed in the said order reads as follows:-

- (a) the "Adal Padal" programme in connection with a festival should be completed before 10.30 p.m.
- (b) double meaning songs should not be played so as to spoil the minds of students and the youth;
- (c) no songs, touching upon any political party or religion, community or caste be played;
- (d) no flex boards in support of any political party or religious leader be erected;
- (e) the function should not affect either religious or communal harmony and shall be conducted without any discrimination based on caste;
- (f) if there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;
- (g) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;
- (h) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme; and
- (i) if any untoward incident takes place, the organizers of the programme be made responsible for the same.

5. The learned Additional Government Pleader appearing for the respondents submitted that in the light of the aforesaid order passed by this Court in WP(MD)No.13517 of 2017 dated 24.07.2017 and also in the light of the decision rendered by the Hon'ble Supreme Court in **(2001) 1 L.W. (Crl.) 233 [Church of God (Full Gospel) in India Vs. K.K.R. Majestic Colony Welfare Association and others]**, appropriate orders will be passed on the representation of the petitioner.

6. The relevant portion of the decision rendered by the Hon'ble Supreme Court in **Church of God (Full gospel) in India Vs.**



K.K.R.Majestic Colony Welfare Association and others, reported in 2001 1 L.W. (Crl.) 233 reads as follows:

.... Further, it is to be stated that because of urbanization or industrialization, the noise pollution may in some area of a city / town might be exceeding permissible limits prescribed under the rules, but that would not be a ground for permitting others to increase the same by beating of drums or by use of voice amplifiers, loudspeakers or by such other musical instruments and, therefore, rules prescribing reasonable restrictions including the rules for the use of loudspeakers and voice amplifiers framed under the Madras Town Nuisance Act, 1889, and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced. We would mention that even though the Rules are unambiguous, there is lack of awareness among the citizens as well as the Implementation Authorities about the Rules or its duty to implement the same. Noise pollution activities which rampant and yet for one reason or the other, the aforesaid Rules or the rules framed under various State Police Acts are not enforced. Hence, the High Court has rightly directed implementation of the same. In the result, the appeal is dismissed. "

7. The application shall be submitted only by the trustees of the Temple or the committee of the Vizha Kzhuvinar or the organizers of the festival committee before the concerned respondent police. However, in the case on hand, both in the affidavit filed in support of the Writ Petition as well as the representation, the petitioner has stated that he is the President of Thiru Vizha festival Committee. Therefore, the third respondent shall consider the said representation dated 17.04.2018 within a period of two weeks from the date of receipt a copy of this order, on merits and in accordance with law, by taking into consideration of the conditions imposed by this Court in W.P.(MD)No.7911 of 2018, dated 12.04.2018, if there is no rival claim to conduct the festival.

8. In addition to the above conditions imposed in WP(MD) No.13517 of 2017, in the event of permission is granted by the respondent, the member or the petitioner has to give undertaking or assurance before the authority concerned that there will not be any obscenity or vulgarity in the cultural programme and there will not be any disturbance to the public peace and tranquillity. Further, the third respondent / Inspector of Police, Vallliyoor Police Station, Tirunelveli District, is directed to videograph the entire cultural programme, at the cost of the petitioner and submit the CD to the Superintendent of Police, Tirunelveli, Tirunelveli District. If any violation of the above said condition by any of the respondents are at liberty to take appropriate criminal action against the organiser and the concerned persons in accordance with law.



9. With the above direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

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/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Tirunelveli District,
Tirunelveli.
2. The Deputy Superintendent of Police,
Valliyoor,
Tirunelveli.
3. The Inspector of Police,
Valliyoor Police Station,
Valliyoor, Tirunelveli District.

+ 1 CC TO Mr.H.ARUMUGAM, ADVOCATE IN SR No. 64426
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 64905

TM/PJL
TE/SV-MMS/SAR-2 : 04/05/2018 : 4P/6C

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