



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 31.07.2018
CORAM
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.(MD) No.16518 of 2018

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M.Mahendran

... Petitioner

Vs.

1. The Superintendent of Police,
Thoothukudi District, Thoothukudi.

2. The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti,
Thoothukudi District.

...Respondents

Writ petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus, to direct the respondents herein to grant permission and to provide police protection and to conduct the "Aadalum Paadalum" dance Programme on 16.08.2018 from 08.00 p.m., to 12.00 pm., in pursuant to the 'Aadi Thiruvizha' of Arulmigu Bathrakaliamman Thirukoil, situated at Manthithoppu Village and Post, Kovilpatti Taluk, Thoothukudi District, by considering the petitioner's representation dated 24.07.2018.

For Petitioner : Mr.T.Veerakumar

For Respondents : Mr.P.Kannidevan

Additional Government Pleader

ORDER

This Writ Petition has been filed seeking a direction to the respondents herein to grant permission and to provide police protection and to conduct the "Aadalum Paadalum" dance Programme on 16.08.2018 from 08.00 p.m., to 12.00 pm., in pursuant to the 'Aadi Thiruvizha' of Arulmigu Bathrakaliamman Thirukoil, situated at Manthithoppu Village and Post, Kovilpatti Taluk, Thoothukudi District, by considering the petitioner's representation dated 24.07.2018.

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, 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 Kuzhuvinar or the organizers of the festival committee before the concerned respondent police. In the case on hand, the petitioner has stated both in the affidavit filed in support of the Writ Petition as well as the representation that he is the President of the Temple Festival Committee of the said Temple. Therefore, the petitioner is directed to enclose a copy of the said representation along with a copy of this order and the second respondent, on receipt of such representation, shall consider the same on or before 15.08.2018 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 granting permission by the second 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 second respondent / Inspector of Police, Kovilpatti West Police Station, Kovilpatti, Thoothukudi District, is directed to videograph the entire cultural programme, at the cost of the petitioner and submit the CD to the Superintendent of Police, Thoothukudi District. If any violation of the above said condition



by any of the parties is noted, 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.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Superintendent of Police,
Thoothukudi District,
Thoothukudi.
2. The Inspector of Police,
Kovilpatti West Police Station,
Kovilpatti,
Thoothukudi District.

+1CC to Mr.D.RAMESHKUMAR, Advocate, SR.No. 76016

+1CC to the Special Government Pleader SR.No. 76068

W.P. (MD) No.16518 of 2018
31.07.2018

RMI

ES/SKN/RSK/SAR 2/02.08.2018/4P/5C