



W.P(MD)No.15520 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.15520 of 2023

and

W.M.P(MD)No.13050 of 2023

1.Kauppaiah
2.Vairamuthu

... Petitioners

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Revenue Divisional Officer
Usilampatti, Madurai District.

3.The Superintendent of Police,
Azagarkovil,
K.Pudur, Madurai District.

4.The Inspector of Police,
Peraiyur Police Station,
Madurai District.

5.The Tahsildar,
Peraiyur Taluk,
Madurai District.

6.R.Deepa

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorari, to call for the records pertaining



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to the impugned order passed by the 5th respondent in Na.Ka.No.1481/2021/C1 dated 29.07.2022 and quash the same as illegal.

For Petitioners : Mr.C.Ezhilarasu
For R1 to R5 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R6 : Mr.L.Prabhu

ORDER

The writ petition has been filed by Karuppaiah, S/o.Veeranan and Vairamuthu, S/o.Neeradu, in the nature of certiorari seeking records relating to an order of the fifth respondent, the Tahsildar, Peraiyur Taluk, Madurai District in Na.Ka.No.1481/2021/C1, dated 29.07.2022 and to quash the same.

2.In the affidavit filed in support of the writ petition, the first petitioner had stated that there were two flag poles of Viduthalai Siruthai Katchi at S.Melapatti Village, Samdaiyur Post, Peraiyur Taluk, Madurai District. During the course of hearing, it has been informed that one of the flag pole had been put up long back in the year 1970 by the Ambedkar Manram. The other flag pole had also been put up subsequently. But both have been in place for considerable period of time. One of the flag pole was in front of the house of the sixth respondent, R.Deepa, W/o.Pathamuthu.



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3.As that particular flag pole was in front of her house, she had instituted O.S.No.19 of 2021 before the District Munsif Court, Peraiyur, seeking removal of the flag pole. The defendants had not received the suit summons and it is stated that one of the reasons for not receiving the suit summons in the said suit was that the name of the father of the defendant had been wrongly given. As on date, the defendants had been set ex-parte. The suit is however pending. In the meanwhile, there were further proceedings initiated even when the suit was pending. One of the said proceedings was W.P(MD)No.4994 of 2022, which had been filed and in which orders have been passed on 22.03.2022. Challenging the said order, a writ appeal had been filed by the petitioners herein in W.A(MD)No.15 of 2023. This came up for consideration before the Division Bench on 06.01.2023. In the said writ appeal, it had been stated that the petitioners herein can question the order now impugned in the present writ petition. It is consequent to that direction in the writ appeal the present writ petition has been filed. The writ petition has been pending before this Court.

4.The grievance in the writ petitioner was that, that two flag poles were directed to be removed by the Tahsildar, even when the writ petition had come up for admission before this Court. There were earlier attempts by the revenue authorities to remove the flag poles. This led to a law and order problem and it is also informed that as against at least 15 members of the petitioners' group, a



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First Information Report had been registered in Peraiyur Police Station. The flag poles had been forcibly removed. This has caused much grievance not only to the petitioners but to all of their group.

5. Heard the learned counsel for the petitioners and learned Special Government Pleader appearing on behalf of the respondents. The Tahsildar, Peraiyur and the Inspector of Police, Peraiyur Police Station are also present. Both sides produced photographs.

6. The learned counsel appearing for the petitioners produced photographs to show that the flag poles were not obstructing anybody and that they had been an place for past so many years and that if at all there was a necessity to shift the flag poles that could have been stated in the order and the the petitioner would have voluntarily shifted the flag post to any other place which was not of inconvenience to anybody else. The only grievance of the sixth respondent is that the flag poles were in front of her house. But the flag poles have been in front of the house from in the year 1970 onwards. Any flag pole which is on the platform will be in front of any house and if the views of the house owners are to be sought then practically every flag pole across the State will have to be removed.



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7.It is however stated that the flag poles were sought to be removed primarily because the foundation or the pedestal of the flag posts was partly in the house of the sixth respondent. The entire flag pole had been removed by the respondents. They could have shifted it. It is stated by the Special Government Pleader that a Peace Committee Meetings held and an opinion was sought and the flag poles were removed. Let me not go backwards on those aspects. As on date, the flag poles have been removed.

8.In a country where there are abundant number of political parties, it is only natural that every political party would like its flags to be hoisted in every street or in practically every corner of the State or Country. This is a fact, which has been accepted as normal. As a matter of fact, the flag poles are opened ceremoniously and flags are hoisted. This is a matter of pride which could be understood only by the member of that particular political party. It may be an eyesore to others, but one heartening feature of democracy is that every political party has its small space to express itself and one of the ways it is so expressed is by hoisting their flag. It is a very important aspect since it is on the basis of that flag, on the basis of that symbol in the flag that elections are contested, parties are identified, voters identify the candidates and the candidates take pride in the flag/symbol. Removing it will certainly cause much mental agony. Therefore, every effort should be taken by the District



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Administration to ensure that the flag posts are not broken or the pedestals are not broken and the flag posts are not removed. There could be an effort made to shift if they are in patta land. They could be shifted to any other place. One argument which had been advanced is that the poles cause inconvenience to pedestrians but, that may not with stand scrutiny of this Court since, every flag will have to be kept on pedestal. At the most regulations can be issued regarding the width of the pedestal.

9.In the instant case, it is stated that since the pedestal was quite broad, it was used for sitting under it and complaints have been received that the place had been misused. I really hope the petitioners would realise that they should not misuse public place and take advantage of sitting under the flag posts and committing any act of misfeasance. This is a direct insult to the flag under which they are sitting, I hope that this is not repeated.

10.Be that as it may, today the flag posts have been removed. The petitioners are deeply aggrieved. That should be addressed. The petitioners may give a representation to the District Collector, Madurai and to the Superintendent of Police, Madurai. The District Collector, may keep in mind that as in-charge of administration of the District, he has to view each and every individual with the same eyes. The request for putting up a flag post by a



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political party is a normal request. It does not signify any assertion of right but, it is an expectation, which is held out by every political party. It is actually a part of culture of every political party. Therefore, let the Collector examine the request by putting aside past events but, bring about regulations and impress upon the applicants the necessity to maintain law and order. If decorum is not maintained even under the flag posts, then the petitioners must realise that they are not insulting anybody but their own flag. The flag must be a flag for honour and not an object to take shelter and do an unlawful activity. This must be impressed on the petitioners.

11.The petitioners may therefore give such a representation. If such a representation is given, then I am confident that the Collector, Madurai, and the Superintendent of Police, Madurai, would suitably advise the petitioners and get necessary undertakings and permit hoisting of the flag posts. They must realise that this is a recognition of the party which wants to hoist the flag. It does not mean disrespect to any other political party. Every party will also have their own opportunity to put up flag posts. Therefore, I would place obligation on the District Administration, on both the District Collector and the Superintendent of Police, Madurai to view any representation given with the idea to accede to the request rather than to reject such a request. Necessary safeguards may be put in place. Necessary undertakings may be received. All



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the concerned parties may be called for discussion. In this case every effort must be made to put up a flag post at some place quite proximate to the place from where it had been removed.

12.I fervently hope that the petitioners would realise their responsibility in maintaining law and order and in not taking law in their own hands. This Court has understood their grievance and has made every effort to address the same. There is yet another issue of the First Information Report having been registered against various members. I would place an obligation on the Chief Judicial Magistrate, Madurai, to call for records of FIR No.125 of 2023 from the file of the Judicial Magistrate Peraiyur and examine the nature of offences for which the accused had been arrayed and issue notice to the Public Prosecutor and also get an opinion as to whether the entire issue could be resolved either during Lok Adalat or through any other platform. The Chief Judicial Magistrate, Madurai, may take into consideration all factors including getting opinion from the de-facto complainant, including getting opinion from the Inspector of Police, Peraiyur and also from the Tahsildar and also examine whether taking into consideration the nature of offences there could be some conciliation provided through Alternative Dispute Resolution method, if the parties are willing and come forward.



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13.If a representation is given on behalf of the petitioners to put up flag poles, the District Collector, Madurai, primarily and after getting opinion from the Superintendent of Police, Madurai or both of them together may take an appropriate decision and may endeavour to dispose it within a period of four weeks from the date of receipt of such representation.

14.Placing these directions, the writ petition stands disposed of. No costs.
Consequently, connected miscellaneous petition is closed.

30.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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C.V.KARTHIKEYAN, J.

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