



W.P(MD)No.17515 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17515 of 2015

Rayappan

... Petitioner

Vs

1.The District Collector,
Kanyakumari District,
at Nagercoil.

2.The Revenue Divisional Officer,
Padmanabhapuram,
Kanyakumari District.

3.T.Christopher Arul Kumar,
Pastor, Glorious Church of Christ,
Vembuvilai,
West Midalakadu,
Palapallam,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representations dated 07.04.2014 and 04.07.2015.



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For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.S.R.A.Ramachandran
Additional Government Pleader
for R.1 & R.2

Mr.S.Titus for R.3

ORDER

Heard the learned counsel on either side.

2.The third respondent had established a church in Keelmidalam Village after getting permission from the first respondent. The allegation of the petitioner is that even though he is not a member of the third respondent church, his name has been falsely included in the list of members submitted by the third respondent along with the application given to the District Collector.

3.This writ petition was filed in the year 2015. We are now in July 2023. No purpose will be served in directing the first respondent to conduct enquiry into the petitioner's representation. The petitioner has made it clear that he is not a member of the third respondent church but he is a member of some other church. The rights of the petitioner have not been affected as such. However, in the representation dated 07.04.2014, the petitioner has alleged that the third respondent has installed sound amplifier systems which causing noise pollution in the locality.



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4.The Hon'ble Supreme Court in the decision reported in **(2000) 7 SCC**

282 (Church of God (Full Gospel) in India Vs. Majestic Colony Welfare

Association and Others) had held as follows:

“**13.** In the present case, the contention with regard to the rights under Article 25 or Article 26 of the Constitution which are subject to “public order, morality and health” are not required to be dealt with in detail mainly because as stated earlier **no religion prescribes or preaches that prayers are required to be performed through voice amplifiers or by beating of drums. In any case, if there is such practice, it should not adversely affect the rights of others including that of being not disturbed in their activities.** We would only refer to some observations made by the Constitution Bench of this Court qua rights under Articles 25 and 26 of the Constitution in Acharya Maharajshri Narendra Prasadji Anandprasadji Maharaj v. State of Gujarat [(1975) 1 SCC 11] . After considering the various contentions, the Court observed that: (SCC p. 20, para 30)

“No rights in an organized society can be absolute. Enjoyment of one's rights must be consistent with the enjoyment of rights also by others. Where in a free play of social forces it is not possible to bring about a voluntary harmony, the State has to step in to set right the imbalance between competing interests....”

The Court also observed that: (SCC p. 20, para 31)



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“A particular fundamental right cannot exist in isolation in a watertight compartment. **One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the State in the light of the Directive Principles in the interests of social welfare as a whole.**”

14. Further, it is to be stated that because of urbanization or industrialisation 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 Nuisances 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-polluting activities are rampant and yet for one reason or the other, the aforesaid Rules or the Rules framed under the various State Police Acts are not enforced. Hence, the High Court has rightly directed implementation of the same.”



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5. Therefore, the second respondent shall ensure that the activities of the third respondent are confined within their church premises and no nuisance shall be caused to the other members of the locality by the installation of the sound amplifier systems.

6. With this direction to the second respondent, this writ petition is disposed of. There shall be no order as to costs.

20.07.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1. The District Collector,
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at Nagercoil.

2. The Revenue Divisional Officer,
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G.R.SWAMINATHAN, J.

MGA

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