

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2023**

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THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

W.P.(MD) No.22189 of 2023

Perumal

... Petitioner

/vs./

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

2.The Revenue Divisional Officer,
Uthamapalayam Taluk Office,
Uthamapalayam Taluk,
Theni District.

3.The Inspector of Police,
Cumbum North Police Station,
Theni District.

4.The Inspector of Police,
Cumbum South Police Station,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to grant appropriate permission and adequate police protection for celebrating Vinayagar Chathurthi

Festival by the petitioner's organization in petitioners Town on 18.09.2023 and to grant permission to conduct the procession on 19.09.2023 at about 3.00 pm for immersing the Lord Vinayagar idol based on the petitioners representation dated 05.09.2023 and 06.09.2023 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.A.Gowthaman

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)

ORDER

This Writ Petition is filed under Article 226 of the Constitution of India seeking for a mandamus directing the respondents police to grant the permission and protection to conduct Vinayagar Sathurthi at 36 places on 18.09.2023 at Theni and to immerse the said idols through a procession on 19.09.2023.

2. It is submitted by the learned counsel for the petitioner that the petitioner is the General Secretary of Hindu Ezhuchi Munnani Kachi and every year they conduct Vinayagar Chaturthi in a grand manner and the said festival is being celebrated since many years. The petitioner's party decided to conduct the festival on 18.09.2023 at Theni by installing idols at 36 various places mentioned in the

petition and after offering pooja for five days will take all the idols as a procession on 19.09.2023 by taking en route to Sri Subramaniyar Swamy temple to Mullai Periyaru and immerse all the idols on 19.09.2023 in the river bed.

3.The petitioner's Hindu Ezhuchi Munnani Ezhuchi Kachi filed a representation dated 05.09.2023 and 06.09.2023 to the respondents police for permission and also protection for performing pooja for five days and for taking the procession thereby to immerse the idols in the river bed. However, the said permission has not been granted so far thereby sought for suitable directions.

4.Learned Government Advocate (Crl. Side) on the other hand submits that the police have got objection for granting permission as the petitioner intend to install more number of idols and also intend to take procession route through the sensitive places where people of other religions are living which may likely to create adverse impact and if any untoward incident happens thereby peace and tranquillity of the society will get disturbed not only in this town but also entire district. It is submitted further that last year when the permission was refused to the petitioner, he has approached this Court and filed a writ petition, which was

dismissed and in spite of it, the petitioner has installed the idols, took over the procession, law and order problem arose and two FIRs have been registered. Last year, while taking the procession, the petitioner instead of taking the idols installed by him, he has collected the idols from various persons and during the process, the persons in the procession have raised some slogans, thereby the issue arose.

5.This Court on 21.08.2020 in W.P.Nos.11366 and 11467 of 2020 (*Ela.Ganapathi v. Government of Tamil Nadu, rep. by its Chief Secretary, Chennai*) has issued a slew of directions which read as follows:-

"13. Accordingly, the writ petitions stands disposed of with the following directions:-

(i) Individuals are permitted to have their Vinayaga idols after the performance of the ceremony in front of their respective houses.

(ii) Individuals are permitted to drop the Vinayaga idols at the entry point of the temples. This direction is issued by taking note of Clause (3) of para 2 of the order under challenge which does not prohibit even the worship before the temples coming under certain categories.

(iii) Individuals are allowed to immerse the idols which can be carried out only by a single person in the water bodies. No such

activities shall be carried out in the stretch between Santhome to Napier bridge.

(iv) The permission given is restricted only to the individuals alone and therefore, there is a total bar to undertake the same activities by organisations.

(v) The aforesaid directions are subject to the regular restriction which are already in vogue including the time restriction and the social distancing.

(vi) For any violation of these directions, the respondents are at liberty to take appropriate action in the manner known to law as they are applicable only to the individual cases alone."

6.At this juncture, the members of the petitioner's party have submitted that he will install the idols not outside but in the respective homes of the members of the petitioner's Hindu Ezhuchi Munnani Kachi and will take the procession en route as decided by the respondent police.

7.In view of the submissions made by the learned counsel on either side, the petitioner is directed to file a fresh application before the respondent police informing them that the petitioner will install an idol in his home and not will install the idols outside the four walls of the sites and inform the police as to on

what date he would like to take out the idol by way of procession for immersion of the Vinayagar Idol and on filing of such application, the respondent police are directed to pass the following directions:-

- i) the petitioner shall install the idols within the four corners of his house;
- ii) the petitioner will inform the date, on which he intends to take out the Vinayagar Idol for immersion;
- iii) the petitioner will follow the route from his home to the place of immersion as suggested by the police;
- iv) the petitioner shall not take the procession of idol through the sensitive areas;
- v) the petitioner shall not collect idols of any other persons or association other than the petitioner group;

vi) the members of the petitioner group shall not raise any political slogans or the slogans, which may likely affect the sentiments of other religious groups;

vii) in case if the petitioner violates any of the conditions, the police are at liberty to take appropriate action.

No costs.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No

14.09.2023

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Note : Issue order copy on 15.09.2023

To

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

2.The Revenue Divisional Officer,
Uthamapalayam Taluk Office,
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DR.D.NAGARJUN, J.

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