



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2014

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.20654 of 2014

and

M.P. (MD) .No.1 of 2014

Zion Christian Welfare Association,
represented by its Vice President Mr.H.Arul Mani,
Aramannam, Cheruppalloor Post,
Kanyakumari District.

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District, Nagercoil.
2. The Superintendent of Police,
Kanyakumari District, Nagercoil.
3. The Deputy Superintendent of Police,
Thuckalay, Kanyakumari District.
4. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.
5. Sri Sapthamathargal Thirukoil,
represented by its Authorised Person,
Aramannam, Cheruppalloor Post,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order of the fourth respondent dated 04.12.2014 and quash the same insofar as the order rejecting the request of the petitioner to conduct the Christmas Function on 25.12.2014 and 26.12.2014 is concerned and consequently direct the respondents 1 to 4 to grant permission to the petitioner to conduct Christmas Festival with Public Address System from 25.12.2014 to 26.12.2014 in the Patta land comprised in Survey No.119/4A, Thumbacode Village, Mundakalvilai Junction, Aramannam, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.C.K.M.Appaji
For Respondents : Mr.V.Muruganandam
Additional Govt. Pleader

O R D E R



2. It is the contention of the Learned counsel for the petitioner that the respondents have every right to lay down restrictions and regulations, but they cannot ban the conduct of Christmas festival altogether and the right to worship under Article 25 of the Constitution of India is granted to the citizen of India and viewed in that perspective, the said order dated 04.12.2014 passed by the fourth respondent suffers from legal infirmity and consequently, it is to be set aside, in the interest of justice.

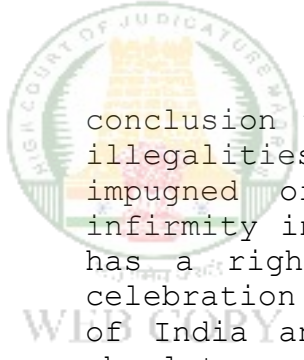
3. That apart, the Learned counsel for the petitioner proceeds to take a plea that the impugned order of the fourth respondent dated 04.12.2014 is violative of principles of natural justice insofar as the rejection of application of the petitioner is concerned.

4. At this stage, this Court relevantly points out that the 'Freedom of Religion' is subject to the interest of public order so that it would not authorise the outrage of the religious feelings of another class, with a deliberate intent, as per decision of the Honourable Supreme Court in *Ramji Lal Modi vs. State of U.P.* (AIR 1957 SC 620). Also, it is to be remembered that no religion specifies that prayers should be performed by disturbing the peace of others nor does it preach that they should be through the voice of amplifiers or beating of drums. No wonder, the other religions rights are required to be honoured and respected.

5. Moreover, Art.25 of the Constitution of India secures to every person, subject to public order, health and morality and other provisions of Part III, including Article 17, freedom to entertain and exhibit by outward acts etc. The right of the State to impose such restrictions as are desired or found necessary based on public order, health and morality is inbuilt in Articles 25 and 26 of the Constitution of India as per decision in *N.Adhithayan Vs. Travancore Devaswom Board* (AIR 2002 SC 3538). Also that religion is a way of life in our country and it is an unending discovery to the unknown world.

6. This Court has perused the impugned order dated 04.12.2014 passed by the fourth respondent. It is evident from the said impugned order that last year in the peace meeting on behalf of the Christmas, before this Court a Writ Petition (MD).No.20422 of 2013 was filed and as per the order passed, the three parties were directed to adhere the same. But the Hindus were advised that like 24th, 25th, 26th and 27th of last year, the Sabthamadhar Temple Festival could be conducted, but at the public place, welcome arch entrance and festoon were not to be tied up. More over, from the side of Christians, they sought for permission on 25th December and 26th December and during last year, as per order passed by this Court on 23.12.2011 either before or after 27th the permission was granted. But the same was refused to be accepted by the side of the petitioner. However, on the side of Barathiya Janata Party at Aramannam Kavuvillai, the permission for celebrating Vajbayee's birthday was refused and etc. Also, the aforesaid details are to be seen from the aforesaid order passed by the fourth respondent/Inspector of Police, Kulasekaram Police Station, Kanyakumari District.

7. In short, on going through the impugned order, dated 04.12.2014, passed by this Court, this Court comes to an irresistible and inescapable



conclusion that the said impugned order does not suffer from any patent illegalities or material irregularities. To put it succinctly, the impugned order dated 04.12.2014 does not bristles with any legal infirmity in the eye of law. That apart, even though, a citizen of India has a right to conduct a meeting/seek permission for conducting any celebration and this particular right guaranteed under the Constitution of India and although it is a fundamental right, the same is not an absolute one, in the considered opinion of this Court.

8. per contra, the State Government or the concerned authorities can impose necessary restrictions taking into account the public interest or public convenience. Suffice it for this Court to very relevantly point out that the peace and tranquility take a foremost seat and they are all of prime importance and they have to be maintained at any cost. It is true that one has to respect and honour the others views and feelings. But at the same time, the Law and order issue also cannot be relegated to the background and that also is to be taken note of by a Court of Law at the time of passing an appropriate order in a given case. Further, the police cannot abdicate their duty/authority to remain silent or mute spectator when the miscreants interfere with the lawful exercise of the legal rights of other people.

9. Be that as it may, in view of the fact that the impugned order passed by the fourth respondent dated 04.12.2014 does not suffer from any infirmity or legal infirmity in the eye of law, this Court is not inclined to quash the impugned order dated 04.12.2014 passed by the fourth respondent. Consequently, the writ petition fails.

10. In the result, the writ petition is dismissed. No costs. The order passed by the fourth respondent dated 04.12.2014 is affirmed by this Court for the reasons assigned in this writ petition. It is made clear that the dismissal of the writ petition by this Court will not preclude the petitioner to submit proper/necessary application before the appropriate authority seeking permission in regard to the conduct of Christmas Festival on 25.12.2014 in the manner known to law and in accordance with law if it so desires/ advised. Also it is needless for this Court to make a significant mention that it is open to the authorities concerned to take a call or to arrive at a decision in regard to the application/petition if any filed by the petitioner after bearing in mind the society/public interest and convenience.

Sd/-

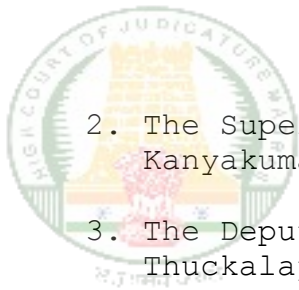
Assistant Registrar (Crl.side)

/True copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District, Nagercoil.



2. The Superintendent of Police,
Kanyakumari District, Nagercoil.

3. The Deputy Superintendent of Police,
Thuckalay, Kanyakumari District.

4. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

+1cc to MR.C.K.M.APPAJI, ADVOCATE IN SR : 69043

+1cc to MR.M.ASHOKKUMAR, ADVOCATE IN SR : 69043

Akv

SR : 24.12.2014 : 4p/7c

W.P (MD) No.20654 of 2014
23.12.2014