

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 07.06.2015

Coram:-

The Hon'ble Mr. Justice T.Raja

Writ Petition No.16151 of 2015

Hindu Munnani,
rep. by its Member of State Executive
Committee - T.Manohar,
S/o.Thangavel,
having head office at Sri Sakthi Vinayagam,
59, Ayya Mudali Street,
Chintadripet, Chennai 600 002. ... Petitioner

vs.

1. The Commissioner of Police,
Coimbatore City, Coimbatore.
2. The Deputy Commissioner of Police,
Crimes (In-charge) Law & Order,
Coimbatore City,
Coimbatore.
3. The Inspector of Police,
B-6, Police Station (Law & Order),
Peelamedu, Coimbatore. ... Respondents.

Writ Petition under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records pertaining to the order passed by the 2nd respondent herein in Na.Ka.No.1150/A.Ka.Thu.Aa/Sa.O./Ko.Ma/2015, dated 06.06.2015, quash the same and consequently direct the respondents herein to grant permission to organize the Procession on 07.06.2015 as requested in the permission letter dated 02.05.2015 or in some other route.

For Petitioner : Mr.G.Karthikeyan

For respondents : Mr.A.L.Somayaji,
Advocate General, assisted by
Mr.S.T.S.Murthy, Government Pleader,
Mr.V.Subbiah, Special Govt. Pleader and
Mr.M.Digvijayapandian, Addl.Govt. Pleader.

O R D E R

The present writ petition is virtually the second petition filed by Hindu Munnani represented by its Member of State Executive Committee-T.Manohar, challenging the impugned order dated 06.06.2015 passed by R-2/Deputy Commissioner of Police, Crimes (Incharge) Law & Order, Coimbatore City, Coimbatore.

2. The petitioner is organizing its 7th State Conference today at 4 P.M. preceded by a procession in Coimbatore City, starting from Singanallur Bus-Stand to Kodisiya Ground. In this regard, the Organizers made a written request, dated 02.05.2015, to R-3, who in turn forwarded the same to R-2 who, after considering the request, by orders dated 03.06.2015, granted permission to hold the meeting/Conference, however, refused to grant permission for the proposed procession from Singanallur Bus Stand to Kodisiya Ground for the reason that the route of the procession being sensitive in nature owing to the location of other religious places of worship and the Main Road leading to Coimbatore Airport and also the Hospital Road would be rendered unusable for the public/patients/travellers in the event of over-crowding or any mis-happening. Aggrieved by such refusal to take out the procession, the petitioner herein had filed W.P. No.15972 of 2015 and, by orders dated 05.06.2015, this Court, after considering the aspect that the order was passed without giving personal hearing to the petitioner, had set aside the same and directed the authorities to give personal hearing to the petitioner before passing fresh orders. After such direction, the 2nd respondent has passed the impugned order declining to grant permission for taking out the procession which has given rise to the present writ proceedings.

3. Mr.G.Karthikeyan, learned counsel appearing for the petitioner, would submit that the petitioner-Organization has been conducting State Conferences in various places of Tamil Nadu viz., Dindigul, Karur, Madurai, Rameswaram and Coimbatore and that the present 7th State Conference, being organized today at 4 P.M., is proposed to be preceded by a procession that will be taken out from Singanallur Bus Stand to Kodisiya Ground. Inasmuch as the respondents have raised objections citing various reasons, it is made clear that the intention of the petitioner is not to create any tension or cause nuisance to any section of people belonging to other religions and that they are prepared even to change the route, if it is indicated. Secondly, by submitting that it has been settled by various judgments that taking out procession is a part of the basic rights, he would argue that when political parties are permitted to take out processions, denial of such permission to religious organizations by citing different reasons

is nothing but a clear act of discrimination. He would add that, subsequent to the orders, dated 05.06.2015, passed by this Court in W.P. No.15972 of 2015, whereby, the petitioner was directed to approach the respondents by filing an affidavit, readily such direction was complied with, with the filing of the affidavit dated 06.06.2015 before the second respondent by making it clear that four of the Association's State Office Bearers viz., M/s.C.Subramaniam, Muruganatham, Ponniah and Kishore Kumar, would be in-charge of the Procession and Conference and they would take the entire responsibility if any untoward incident takes place. As the procession is going to be controlled by all the leaders as well as the aforesaid State Office Bearers with a sense of care and responsibility, there need not be any apprehension on the part of the respondents to grant permission for the procession preceding the conference.

4. While making reliance upon a handful of decisions including 2005 (3) CTC 260 (Adhirai M.M.Ibrahim v. The Commissioner of Police), AIR 1935 Allahabad 657 (Qasim Raza v.Emperor) etc., he specifically referred to the one reported in 2014-5-Law Weekly-865 (Durai Sankar & Others v. Secretary to the Government & Others) to submit that, in the said case, while considering almost similar and identical contentions put forth by both parties, this Court had granted permission to take out the procession and the said decision, he pleaded, may be followed in the present case as well. From the said decision, he particularly highlighted the instances referred to therein viz.,

a) in L.Maran v. The Superintendent of Police (MANU/TN/2643/2010) Naam Thamizhar Iyakkam was directed to be granted permission to organise a meeting to protest the killing of fishermen;

b) in Adhirai M.M.Ibrahim v. The Commissioner of Police (2005-3-CTC-260), this Court dealt with the refusal of permission to organise a dharna to different organisations and ultimately, allowed the writ petitions; and

c) in R.Navarasan v. The Home Secretary (W.P. No.21838 of 2014, dated 14.08.2014, a political party (Viduthalai Chiruthaigal Katchi) was allowed to conduct a conference by allowing the writ petition.

According to the learned counsel, the respondents cannot discriminate the petitioner on the ground that they are not a political party and they cannot be permitted to state that a different yardstick can be applied in the matter of permission to take out procession between a political party and a religious organisation. So submitting, he pleaded for grant of the prayer sought for.

5. Per contra, Mr.A.L.Somayaji, learned Advocate General, by strongly objecting to the prayer, has submitted that the

respondents, in the present case, having considered the reasonable and genuine prayer of the petitioner to hold the meeting, passed an order on 03.06.2015, granting permission in their favour to hold the Meeting in Coimbatore City, however, with regard to their request for taking out a procession, the authorities had to appreciate various vital reasons including the factum that, if for any reason, the petitioner, being a religious organization, was granted permission to take out the procession through the route covering sensitive venues like places of worship belonging to other religious groups and also places involving public utility services like hospitals, any untoward happening would have adverse impact over the peaceful atmosphere prevailing in the City. He would submit that, after the unfortunate communal riots that jolted the Coimbatore City in 1998 resulting in loss of valuable human lives and damage to properties worth crores of rupees, no religious organization is permitted to take out any procession. No doubt, such permission is granted to political parties. The reason behind denial of permission to hold rallies and processions by religious outfits is not due to any discrimination but it is only with a view to preserve the religious harmony and a peaceful atmosphere prevailing in the City. Since the petitioner is a religious organisation and it is expected that more than 25000 cadres are going to participate in the procession and the meeting, there is also a sense of apprehension in terms of 'mob psychology' viz., a person, who is going to take part in-group, will sometimes fall in line with any unreasonable gesture that would be created by the other person in the group by raising provocative slogans ultimately leading to riot and vandalism; therefore, rightly, the respondents decided not to accord permission to take out the procession by the petitioner/Religious Organisation. He highlighted that the authorities never granted the permission to hold processions in favour of any religious outfit and such permission was recently granted only in favour of a political party/CPI. Inasmuch as permission to hold procession prior to the meeting was rejected by way of passing a detailed speaking order, dated 06.06.2015, by assigning clear reasons, there is no scope for the petitioner to complain discrimination and hence, the petition deserves dismissal by this Court; he pleaded.

6. I have carefully considered the rival submissions advanced on either side. Even though the learned Advocate General has sought for time to file a detailed counter affidavit in support of the impugned order and incorporating all the reasons for passing the same and stated that, if for any reason, after considering such counter that would be filed in the course of next week, this Court is of the view that the reasons are not convincing, permission may be granted to take out the procession by the petitioner on any other date; this Court does not find any good reason to accept the said request and further, the decided case laws by this Court are

not in favour of the respondents. Primarily, this Court is not able to see any justification in the conduct of the respondents in denying permission to take out procession by the petitioner on the ground that it is a religious organisation and in granting permission to hold such processions in favour of political organisations merely because they have political colour. Such application of different yardstick between the religious outfits and political organizations will never be tolerated by the strong equality flavour prevailing under Article-14 of the Constitution. From the instances referred to by this Court in Durai Sankar Case (Cited Supra), in matters relating denial of permission to hold processions by Naam Thamizhar Iyakkam, Adhirai M.M.Ibrahim case, R.Navarasan case, this Court directed the authorities to permit them to hold processions. Merely because the petitioner is a religious group and it does not have the political trait, the respondents cannot deny permission to it for holding procession. It should also be pointed out here that the respondents have been granting permission to the petitioner and other Hindu Organisations to take the deity in procession during Vinayaka Chatruthi in all places all over Tamil Nadu including Coimbatore City. While this being the admitted position, on the bald ground that the petitioner belongs to a religious organisation, they cannot be denied permission particularly when already they have been enjoying such permission in connection with Vinayaka Chatruthi.

7. At the risk of repetition, it is pointed out that this Court is unable to see any justification in the act of the respondents in recently allowing the CPI party to take out the procession while denying such permission to the petitioner simply because it is a religious organization; for, such arbitrary consideration by the authorities between political and religious organisations is nothing but a clear act of discrimination and this Court cannot endorse and encourage such discriminatory practice which is contrary to Article-14 of the Constitution. Also, as already pointed out, in the affidavit, dated 06.06.2015, submitted by the petitioner before R-2, it is clearly mentioned that four of the State Office Bearers - C.Subramaniam, Muruganatham, Ponniah and Kishore Kumar, would be in-charge of the Procession and Conference and that they would take the entire responsibility if any untoward incident takes place. Apart from that, Mr.G.Karthikeyan, learned counsel himself has assured before this Court that the procession would be taken out peacefully without raising any Slogan by the cadres.

8. In the light of the foregoing discussion and considering the fact that the 7th State Conference of the petitioner is scheduled today and the procession is set to start sometime before 4 P.M., this Court allows the petitioner to hold the procession without raising any slogan and in a peaceful manner under the

control of the leaders especially the four office bearers as aforementioned and in terms of the assurance made before this Court by the learned counsel for the petitioner himself. With reference to the issue relating to route via which the procession would have its march, this Court enquired Mr.C.Easwaramoorthy, DIG - Intelligence (Internal Security) and Mr.Ara.Arul Arasu, Superintendent of Police (Special Division), Mylapore, Chennai, who would submit that the procession may be allowed to take its route to Kodisiya Ground from Tidel Park via Thanneer Panthal Road, S-Bend and Kodisiya Main Gate, and the said aspect relating to route is directed to be conveyed to the organizers both through their Counsel as well as by the Police Authorities and it is made clear that there should not be any deviation both in the matter of route as well as in the manner as observed by this Court in the course of this order.

9. The Petition is disposed of in the above terms. No costs.

Sd/-
Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Police,
Coimbatore City,
Coimbatore.

2. The Deputy Commissioner of Police,
Crimes (In-charge) Law & Order,
Coimbatore City,
Coimbatore.

3. The Inspector of Police,
B-6, Police Station (Law & Order),
Peelamedu,
Coimbatore.

1 cc to Government Pleader, Sr. 27137
1 cc to M/s. G. Karthikeyan, Advocate, Sr. 27130

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