

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2015

C O R A M :

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

W.P.No.21751 of 2015

M.Sasi @ Sakthivel

...Petitioner

/vs/

The Deputy Superintendent of Police,
Erode Rural, Erode,
Erode District.

...Respondent

Writ Petition filed under Section 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.28/ Mike/SDO-ER/2015, dated 10.07.2015 and quash the same consequently directing the respondent to permit the petitioner to conduct propaganda through Auto and Van for three days and allow the petitioner to conduct hunger fast for three days as date fixed by the respondent himself.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.S.T.S.Moorthy
Government Advocate Asst. by
Mrs.P.Rajalakshmi
Government Advocate

ORDER

Seeking permission to register the protest including fasting, the petitioner made a request on 07.07.2015 to the respondent. The said request made by the petitioner was rejected on the ground that it will lead to law and order problem and traffic congestion and the above said request is pending consideration. Apart from the existence of police order, an order was passed in the recent

past under Section 30(2) of the Police Order. Challenging the same, the present writ petition is filed.

2. The learned counsel appearing for the petitioner submitted that what the petitioner wants is to register his protest in a democratic way. Unilaterally, an action is being taken to shift the construction of the college from Sivagiri to Modakurichi. The respondent can always impose conditions to regulate the traffic and fix the time. Accordingly, Section 30(2) does not impose any absolute ban. Therefore, the writ petition will have to be allowed.

3. The learned counsel appearing for the respondent submitted that the main issue, which the petitioner seeks to agitate, has been decided by the Division Bench of this Court. Thus, there is no basis for agitation. As the order has been passed by taking into consideration of relevant materials, no facts will be required. Section 30(2) does not impose absolute ban. In other words, notwithstanding the said provision in a given case, the relief could be given subject to the condition that can be imposed. Further, for condition imposed so, the parameters required will have to satisfy. Now, in the present case, the petitioner wants to show his protest in a democratic manner. There cannot be any law and order problem that would arise in that process. There is no material to come to the conclusion that law and order problem would arise. Even in such case, the respondent can very well regulate it by taking appropriate action. Similarly, the traffic congestion in the event of permission being granted can be avoided by imposing appropriate condition while giving permission. Accordingly, the order impugned is set aside and the petitioner is permitted to give a fresh representation seeking a fresh permission, as and when the said representation is received, the respondent concerned is directed to give an appropriate permission subject to the conditions that can be imposed keeping in mind the law and order problem and a traffic congestion.

5. Accordingly, the writ petition stands disposed of accordingly. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Superintendent of Police,
Erode Rural, Erode,
Erode District.

1 CC to Mr.C.Prakasam, Advocate SR.No. 42851

1 CC to the Government Pleader, SR.No. 42806

W.P.No.21751 of 2015

GJ (CO)
PSI (17.08.2015)



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