

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:03.11.2015

C O R A M

THE HONOURABLE MR.JUSTICE M.M. SUNDRESH

W.P.No.34298 of 2015

J. Gunasekar

...Petitioner

Vs.

State of Tamil Nadu,
Rep. By the Inspector of Police,
Thiruppur North Police Station,
Thiruppur.

Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of certiorarified Mandamus after calling for the concerned records relating to order No.nil dated 27.10.2015 passed by the respondent quash the same and Consequently direct the Respondent to grant permission to the petitioner to undergo indefinite fasting with effect from 06.11.2015 at 09.00 a.m. (the prayer is amended as per the order of this Court dated 03.11.2015) in MP.NO.1/2015 in WP.NO.34298/15)

For Petitioner : Mr.G.Pavendhan
For Respondent : Mr.V.Subbiah
Special Government Pleader

ORDER

By consent of both parties, this matter is taken up for final disposal at the admission stage itself.

2. Writ Petition is filed for issuance of a Writ of certiorarified Mandamus after calling for the concerned records relating to order No.nil dated 27.10.2015 passed by the respondent to grant permission to the petitioner to undergo indefinite fasting with effect from 06.11.2015 at 09.00 a.m.

3. The petitioner has sought for a permission to have indefinite fasting through representation dated 01.10.2015 from 06.11.2015 onwards. The request was rejected on the ground that an indefinite fast would lead to loss of life. However, the petitioner was informed that if he seeks permission to conduct fasting for one day, his request would be considered. Challenging the same, the present writ petition

has been filed and subsequently, M.P.No.1 of 2015, has been filed by the petitioner seeking amendment of the original prayer, in which, the order dated 27.10.2015 is challenged. Considering the above, the said petition is ordered.

4. The learned counsel for the petitioner has made reliance on the order passed by this Court in W.P.No.26930 dated 01.10.2013, in which, after taking note of the decision of the Hon'ble Apex Court reported in Ramlila Maidan case and Mohd. Yousuf Rather Vs. State of Jammu and Kashmir (AIR 1979 SC 1925), the relief sought for is granted. Therefore, the order impugned is liable to be set aside.

5. The learned Special Government Pleader appearing for the respondent submitted that the place, in which the permission sought for conducting continuous fasting is a congested one. Therefore, giving permission for continuous fasting would lead to a serious problem apart from law and order problem and danger to life of person fasting.

6. The place and time of the proposed continuous fasting lies within the power of the respondent police. Therefore, it is for the said respondent to choose an appropriate place, if the place chosen by the petitioner is otherwise conducive.

7. Coming to the other issue of continuous fasting is concerned, in the event of any situation that would arise, leading to the loss of life, then it is well open to the respondent to take appropriate action. Even according to the respondent, one day permission can be granted. The alleged law and order problem has also not been stated in the order impugned. Therefore, this Court presumes that there is no such difficulty. Therefore, this Court is of the view that the decision relied upon by the learned counsel for the petitioner would govern the case. This Court has passed a detailed order by making clear the law governing the filed. While doing so, some conditions have also been imposed.

8. Accordingly, the order impugned is hereby set aside and consequently, the respondent is directed to give permission to the petitioner to have an indefinite fasting proposed to be held on 06.11.2015. However, it is made clear that it is for the respondent to fix the place and time for the above said purpose. However, in the event of the fasting being continued, leading to a likelihood of danger to life, for those who indulge in the said activity, the respondent can act as per law.

In the result, the writ petition is allowed accordingly. No costs.

-Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

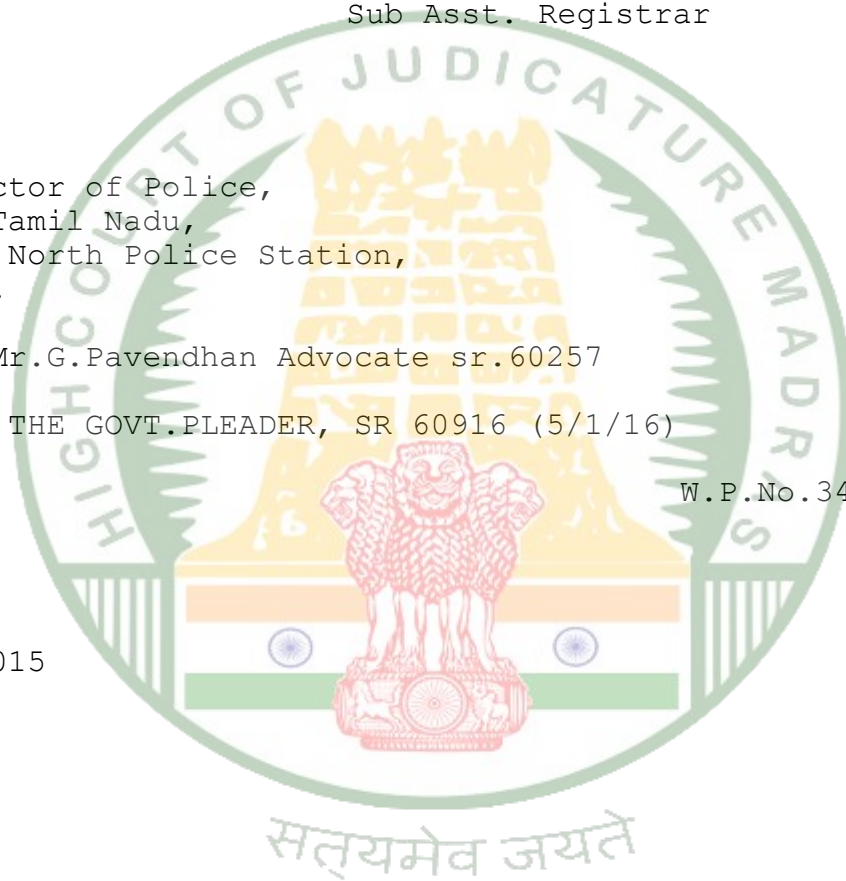
The Inspector of Police,
State of Tamil Nadu,
Thiruppur North Police Station,
Thiruppur.

+1 cc ot Mr.G.Pavendhan Advocate sr.60257

+ 1 CC TO THE GOVT.PLEADER, SR 60916 (5/1/16)

W.P.No.34298 of 2015

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