

In the High Court of Judicature at Madras

Dated: 30.10.2015

Coram

The Honourable Mr.JUSTICE M.M.SUNDRESH

Writ Petition No.34992 of 2015

& M.P.No.1 of 2015

Manithaneya Makkalkatchi,
represented by its General Secretary,
Mr.M.Tameemum Ansai,
SamsuGani Complex, II Floor,
8/1, Adithanar Road, Puduchpet,
Chennai - 600 002. Petitioner

Vs.

1. The Commissioner of Police,
Chennai City,
Egmore, Chennai,
2. The Deputy Commissioner of Police,
Flower Bazaar,
Chennai - 600 001
3. The Assistant Commissioner of Police,
Harbour Range,
Chennai - 600 001. Respondents

Manithaneya Makkal Katchi,
represented by its General Secretary
M.Tameemum Ansari,
SamsuGani Complex, II Floor,
8/1, Adithanar Road,
Pudupet, Chennai - 600 002. Intervenor

PETITION under Article 226 of The Constitution of India
praying for the issuance of Writ of Certiorarified Mandamus to
call for the records of the 3rd respondent herein in
No.86/Asst.Commis/Harbor Range/camp/2015 dated 27.10.2015 and
quash the same and consequently direct the respondents herein to
grant necessary permission for the public meeting arranged by

the petitioner on 1.11.2015 at Thambuchetty Street, Mannady, Chennai - 600 001.

For Petitioner : Mr.Mr.R.Muthukumaraswamy,
Senior counsel for Mr.M.Sivavarthanan

For Respondents: Mr.P.Sanjay Gandhi, Addl. Govt. Pleader
for respondents 1 to 3

For Intervener : Mr.V.Raghavachari

O R D E R

The petitioner, claiming to be the General Secretary of the Manithaneya Makkal Katchi, sought for permission to have a public meeting at Thambuchetty Street, Mannady, Chennai - 600 001 proposed to be held on 1.11.2015.

2. The said request of the petitioner was not considered by the 3rd respondent by issuing the impugned show cause notice dated 27.10.2015 on the premise that the rival group has made objection and it has also given such an objection to the Election Commission of India not to recognise the petitioner's group. As the date fixed for the meeting comes on 1.11.2015, the present writ petition has been filed.

3. Learned Senior Counsel appearing for the petitioner submitted that admittedly there is an inter se dispute between the groups headed by the petitioner on the one hand and by Sri P.Abdul Samad on the other hand. Though the said P.Abdul Samad was the General Secretary till 2011, the petitioner was elected in 2012 and continues till now. The other group apparently removed the petitioner illegally without authority of law in the year 2015, which is void ab initio. The other group has conducted a meeting at the same place on 18.10.2015. Though the petitioner does not want to canvass the inter se dispute between the parties, what it wants is to conduct a meeting.

4. Though the writ petition has been filed against the show cause notice, a decision has been taken by the official respondents not to allow the meeting. The Constitution and the Rules/By-laws of Manithaneya Makkal Katchi show that there is no post of President available. The paper publication dated 10.10.2015 made in Dinathanthi would indicate that the petitioner, even according to the intervener, was the General Secretary till recently. There is no material to hold that there

is likelihood of law and order problem. Therefore, the writ petition will have to be allowed.

5. The learned Government Pleader on instructions submitted that the permission to conduct the meeting was rejected anticipating the law and order problem involving objection raised by the rival group. The other group has also raised an objection before the Election Commission of India. Thus, a decision has been made to reject the direction sought for. Therefore, no interference is required.

6. Mr.V.Raghavachari, learned counsel appearing for the intervener, who has been heard, submitted that the petitioner does not have a legal right to represent the party, while there cannot be any objection for the petitioner to conduct a meeting, the same cannot be allowed without any legal right to do so in the name of the party. The documents filed would show that the proceedings have already been initiated against the petitioner and his group. Reliance has been made on the following decisions by the learned counsel to state that the power of judicial review is not required to be exercised in such a case:

''(1) Rama.Muthuramalingam, State Propaganda Committee Member, Thanthai Periyar Dravidar Kazhagam Vs. The Deputy Superintendent of Police, Mannargudi, (2004-4-L.W. 737);

(2) M.Balaguru Vs. The Commissioner of Police, ((2010(4) CTC 195));

(3) S.Sivakumar Vs. The State of Tamil Nadu, ((2013(5) CTC 695);

(4) P.Pugalenthil Vs. The Deputy Superintendent of Police, Sethiyathope, (W.P.Nos.26567 of 2015 etc., batch dated 28.8.2015).''

Further submission has been made by the learned counsel that as per the by-laws, the decision of the petitioner cannot be accepted.

7. This Court is not concerned with the inter se dispute between the parties viz., group belonging to the petitioner and the group headed by the intervening petitioner. There are documents produced by either side in support of the contention that they are the actual party. The petitioner has relied upon

the notice dated 10.10.2015 issued by by the opposite party as well as the communication sent to the Chief Election Commission dated 21.7.2014 showing the petitioner as the General Secretary of the party. On the contrary, the learned counsel appearing for the other group has made reliance to the documents starting from 3.9.2011 to 30.9.2011 and thereafter from 11.10.2015 to 28.10.2015. A submission has been made by the learned Senior Counsel for the petitioner stating that in the typed set of documents filed by the learned counsel for the intervenor it has left out the relevant documents from 2012 to the month of September, 2015. On the contrary, learned counsel for the intervening party Mr.Raghavachari submitted that the petitioner without stating these facts have come before this Court.

8. The forum for adjudication of the rights of the petitioner as well as the intervening party is different. Admittedly, all of them worked together earlier under the same umbrella atleast till the first half of 2015. Therefore, this Court is not willing to go into the documents filed by either of the parties right from 2011 to till now. There is no material to come to the conclusion about the alleged law and order problem. In fact, the other group is stated to have conducted a meeting on 18.10.2015. The apparent reason on behalf of the official respondents appears to be the rival claims between the two groups. In other words, the petitioner cannot be faulted for causing any problem. As stated above, the inter se dispute has to be resolved elsewhere. What the petitioner wants is to conduct a meeting. It is not as if the members of the other group and the public would be misled. The party has been divided into two. The office bearers and the members have taken their respective stand. Therefore, there is no room for confusion in this regard. A right to conduct a public meeting would certainly attract a fundamental right. While considering the said request, the respondent concerned will have to take into consideration all the relevant materials. As discussed above, the said authority has been carried over by the inter se dispute between the two groups. It is not known as to how the other group was given permission, as the situation was the same even at that point of time. Even otherwise, the possible or likelihood of a law and order situation can very well be dealt with by the official respondents by taking appropriate measures. It is not as if the permission will be given without any conditions. It is well open to the respondents to impose conditions keeping in view the law and order problem.

9. Though the writ petition has been filed challenging the show cause notice, as a final discussion has been made and arguments have been made also on merits, this Court does not want to stand on technicalities, more so, when the meeting is fixed day after tomorrow.

10. Accordingly, the writ petition stands allowed and consequently the official respondents are directed to grant permission to the petitioner group to hold meeting by deciding the place of meeting either at Mint Clock tower or Royapuram or Vannayyarpet at Chennai. It is open to the official respondents to put such other conditions, as may be imposed for the proposed meeting scheduled to be held on 1.11.2015 at about 6.00 p.m at the permitted place. The decisions relied upon by the learned counsel for the intervener do not apply to the case on hand. The power of judicial review is certainly available when there is no sufficient material or the materials taken into consideration are irrelevant. Such a review will have to be exercised on the facts and circumstances of the case. Therefore, this Court is of the view that the above said decisions will have no application to the case on hand. It is made clear that this order will not stand in the way of the respective parties that they are the recognised ones, as it is passed only for the purpose of conducting a meeting. However, there is no order as to costs.

Sd/-
Assistant Registrar (CO)

True Copy

Sub Assistant Registrar

To

1. The Commissioner of Police,
Chennai City,
Egmore, Chennai,

2. The Deputy Commissioner of Police,
Flower Bazaar,
Chennai - 600 001

WEB COPY

3. The Assistant Commissioner of Police,
Harbour Range,
Chennai - 600 001.

+lcc to Mr.V.Raghavachari, Advocate Sr.59653
+lcc to Mr.siva varthanan, Advocate Sr.59569

W.P.No.34992 of 2015

sv[co]
srg 4/11/2015



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