



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.10.2015

CORAM:

THE HONOURABLE MS.JUSTICE R.MALA

W.P(MD)No.18266 of 2015

and M.P.(MD) No. 1 of 2015

P.Moorthy

:Petitioner

Vs.

1.The Commissioner of Police,
Madurai City.

2.The Assistant Commissioner of Police,
Thallakulam, Madurai City.

3.The Inspector of Police,
Thallakulam Police Station,
Madurai City.

:Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the second respondent in his proceedings No.Na.Ka.205/MLR/AC-TKM/L&O/2015 dated 10.10.2015 and quash the same and consequently direct the respondents herein to permit the petitioner, his men and public to hold a protest demonstration for the cause mentioned in the application of the petitioner dated 30.09.2015 in front of Office of Madurai Corporation, Thallakulam, Madurai on 23.10.2015 and pass such other orders as this Court may deem fit and proper in the circumstances of this case.

(Prayer amended vide Court's order dated 13.10.2015 in M.P.(MD) No.2 of 2015)

For Petitioner : Mr.Veera Kathiravan

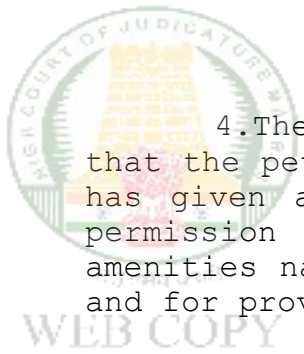
For Respondents : Mr.S.Chandrasekar
Government Advocate

O R D E R

Mr.S.Chandrasekar, learned Government Advocate, takes notice for the Respondents. By consent, the Writ Petition itself is taken up for final disposal.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the Respondents.

3. The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, seeking to quash the impugned order passed by the second respondent dated 10.10.2015 and for consequential direction to the respondents herein to grant permission and police protection to the petitioner, his men and public to hold a protest demonstration for the cause mentioned in the application of the petitioner dated 30.09.2015 in front of Office of Madurai Corporation, Thallakulam, Madurai on 23.10.2015.



4. The learned counsel appearing for the petitioner would submit that the petitioner is the District Secretary of a political party and he has given a representation dated 30.09.2015 to the respondents seeking permission to conduct a protest demonstration for improving the basic amenities namely, maintenance of road, street lights, drainage facilities and for providing drinking water.

5. He would further submit that there is irregularity and infirmity in providing the basic necessities to the general public, which leads to so many diseases and hence, to draw the attention of the Officials of the Corporation, they want to conduct a protest demonstration peacefully, but the respondents without considering the same passed the impugned order by stating that the place sought to conduct a protest demonstration is not conducive and it is one way road having heavy traffic and Educational Institutions, District Court and Banks are situated in the said road and therefore, permission cannot be granted to conduct protest demonstration.

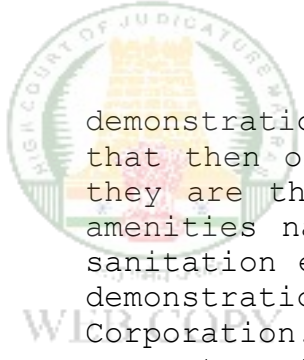
6. The learned counsel for the petitioner would further submit that the petitioner has every right to freedom of speech and expression as per the Article 19(1)(a) of the Constitution of India and hence, right of the citizens to conduct procession and public meeting cannot be curtailed and the police has to regulate the traffic and permit the petitioner to conduct the procession and meeting.

7. He relied upon another decision of this Court reported in 2010(5) CTC page 134 (C.Sakthivel Vs. The Commissioner of Police, Commissioner Office, Egmore, Chennai 600 008) wherein it has been held that no authority can prohibit a democratic activities unless prohibited in Article 19(2) of the Constitution of India.

8. The learned counsel relied on another judgment of this Court passed in Crl.O.P.No.14907 of 2015 dated 19.08.2015, wherein, this Court has permitted to organize a protest demonstration before the Karur Municipal Corporation, in respect of irregularities committed by Karur Municipal Corporation. Hence, the learned counsel prayed for setting aside the impugned order and sought permission for conducting the protest demonstration.

9. Resisting the same, Mr.S.Chandrasekar, learned Government Advocate appearing for the respondents in this writ petition would submit that it is true that they are having a right of expression, but, the place selected to conduct the said demonstration is not conducive and it will create traffic bottleneck since Educational Institution, District Court and Banks are situated in that road. He would further submit that the respondents, after considering all these aspects in a perspective manner, has rightly rejected the petitioner's representation and hence, the impugned order does not warrant interference by this Court and he prayed for dismissal of this petition.

10. Considering the rival submissions made on both sides and on a perusal of typed set of papers, it is seen that the representation was given by the petitioner on 30.09.2015 for conducting demonstration in respect of lack of basic necessities for the public in Madurai Corporation, but, they sought permission to conduct the protest



demonstration only in front of the Office of Madurai Corporation stating that then only the attention of the concerned Officials can be drawn and they are the competent persons to take necessary steps to provide basic amenities namely, drinking water, maintenance of road and street lights, sanitation etc. The main object of the petitioner to conduct the protest demonstration is to draw the attention of the local body i.e the Madurai Corporation. Article 19(1)(a) of the Article of the Constitution of India guarantees to all citizens, right to freedom of speech and expression and merely because the place is not conducive, right to conduct demonstration shall not be curtailed, so it is appropriate to consider the judgment of the Hon'ble Division Bench of this Court reported in 2013(3) MLJ 513 (The Home Secretary, Government of Tamil Nadu, Secretariat, Chennai and Others Vs. Era.Selvam and Another).

11. In paragraph NO.14, of the said judgment this Court has held as follows:

14. Considering the above principles in mind as well as the claim made by the respondents in these writ appeals that they are organising procession and award giving function on the birth anniversary day of Dr.B.R.Ambedkar on 14.04.2013 and to avoid apprehension expressed by the learned Advocate General that the entire persons participating in the procession will straight away go to the meeting place at Mangollai, Myalpore, Chennai, we are of the view that the said apprehension can be answered by modifying the order of the learned single Judge, directing the writ petitioners/respondents herein to hold procession between 10.00 a.m and 1.30 p.m on 14.04.2013 from Rajarathinam Stadium to Langs Garden Road and to conduct public meeting at Mangollai, Mylapore, Chennai - 4 from 6.00 to 10.00 p.m. The change of timing will avoid the persons participating in the procession going to the place of meeting straight away as there will be a brake of 4.30 hours. The police are directed to regulate traffic and permit the writ petitioners to conduct procession and meeting as aforesaid. The conditions imposed by the learned single Judge in his order dated 12.04.2013 is to be scrupulously followed by the writ petitioners/ respondents herein and organisers and leader of the party, who assured to control the entire cadre. It is needless to reiterate that while conducting procession during the above said time and conduct of meeting, the organisers should see that no untoward incident is allowed to happen and if any violation of the undertaking given by the organisers or by any other person, the appellants are entitled to deal with them to preserve maintenance of peace and tranquility and it is open t them to initiate appropriate action against the violators, in accordance with law."

After considering the several judgments of the Hon'ble Supreme Court, the Division Bench of this Court has directed the police to regulate traffic and permit the writ petitioners therein to conduct procession and meeting.

12. In the present case, even though the learned counsel sought for permission to conduct a protest demonstration for two hours, he restricted the time to one hour and he would submit that they want to

conduct a protest demonstration for only one hour on 23.10.2015 at 11.30 a.m to 12.30 p.m in front of the Office of Madurai Corporation.

13. Considering the judgment of the Division Bench of this Court, I am of the view that it is a fit case for granting permission to conduct a protest demonstration in front of the Madurai Corporation Office on 23.10.2015 between 11.30 and 12.30 p.m, which is not school time and busy traffic time. The Madurai Corporation is the authority to improve the basic amenities of the public, so, in front of the Madurai Corporation Office is the conducive place to conduct the protest demonstration. Hence, the impugned order passed by the second respondent dated 10.10.2015 is liable to be set aside as unsustainable and the same is hereby set aside. Further more, as per the judgment of the Division bench of this Court the respondent police are directed to regulate the traffic and grant permission for conducting a protest demonstration in front of Madurai Corporation on 23.10.2015 at 11.30 a.m to 12.30 p.m.

14. Besides, the respondents shall indicate all conditions required for smooth and proper conduct of the protest demonstration, which may include the following:

"1.The protest demonstration shall be permitted to be held on 23.10.2015 between 11.30 a.m., and 12.30 p.m in front of Office of Madurai Corporation, Thallakulam, Madurai.

2.The protest demonstration shall not be conducted beyond the above said time limit:

3.The participants should not make any slogans against any political party. In the demonstration, there should not be any indictment to any expressions against any political party/leader, any religious or community leaders, groups or individuals either by words or deeds, which would affect their sentiments;

4.The volume of speakers provided should be at a minimum level, so as not to cause any disturbance to neighbors;

5.The people, who come to participate in the meeting, should come quietly without causing any disturbance or hindrance to the public at large;

6.The people, who come to participate in the demonstration, should not come in a open van or sitting on top of the buses or van would certainly cause law and order problem;

7.There should not be any procession on account of this demonstration;

8.There should not be bursting of any crackers or erection of any flex boards;

9.The respondent Police shall provide adequate police protection for the safety and security of the persons, who attend the demonstration and the property and the general public;



10. The speakers of the meeting shall address only on the general issues and shall not speak on any other topics, which would affect the sentiments of other religious or political or communal parties/ leaders;

11. After the proposed demonstration, the participants shall quietly disperse without causing any disturbance to people in and around and to the general public.

12. The participants should co-operate and abide by all the conditions of the respondent Police and their vehicles should be in the parking place and the vehicles should not be brought to the place of demonstration.

13. Strict discipline should be maintained and all the participants should co-operate with the respondent police for the peaceful conduct of the demonstration.

14. The speakers and the participants of the demonstration should ensure safety and security of the public property.

15. The speakers and the participants should adhere to the duration of the demonstration viz., 11.30 a.m., to 12.30 p.m., and they cannot extend the demonstration beyond the said time.

16. The participants shall not cause any hindrance to general public or transport in any manner; and

17. The Petitioner is also directed to give an undertaking that if any untoward incident took place, he will be held responsible for the same."

15. It is made clear that if any untoward incident or any issue with regard to law and order problem is created or the conditions violated, either by the participants or by the speakers in the demonstration, the respondent police is at liberty to take appropriate action in accordance with law.

16. The Writ Petition stands disposed of in the above terms. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Commissioner of Police, Madurai City.

2. The Assistant Commissioner of Police, Thallakulam, Madurai City.

3. The Inspector of Police, Thallakulam Police Station, Madurai City.

+1cc to M/s.Veera Kathiravan, Advocate in SR.No.61005

+1CC to the Special Government Pleader, in SR.No.60920

W.P(MD) No.18266 of 2015
and M.P.(MD) No. 1 of 2015

Dated:- 14.10.2015