

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:12-5-2016

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.17842 of 2016

Mr.N.Maruthu

... Petitioner

Vs.

1.The Secretary to the Government
Home Department
Government of Tamil Nadu
Fort St. George, Chennai-9.

2.The Returning Officer
No.22, Virugambakkam Legislative Constituency
Chennai-600 092.

3.The Inspector of Police,
R10,MGR Nagar Police Station
Chennai-83.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the order No.vi/pa/sa/ma/tho/143/2016 dated 09.05.2016 passed by the 2nd respondent and quash the same and further direct the respondents to permit the petitioner to conduct the Public Meeting on 11.05.2016 or 12.05.2016 at 4 P.M. in the venue of M.G.R.Nagar Market, Chennai.

For Petitioner : Mr.Sankarasubbu

Assisted by Mrs.S.Meenakshi

For Respondents : Mr.TN.Rajagopalan Spl.G.P. for R1

Mr.Niranjan Rajagopal for RR 2 & 3

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ORDER

The petitioner who is a Member of Makkal Athikaaram, has approached this Court challenging the order of rejection passed by the second respondent denying the permission to organise an election campaign.

2. Mr.Sankarasubbu, assisted by Mrs.S.Meenakshi, would submit that the petitioner as a Member of Makkal Athikaaram, is entitled to protest the policy of the Government and therefore, they are entitled to organise an election campaign as they have already been repeatedly holding meetings. The right to express is a fundamental right and there cannot be any prevention. He would further submit that they have made arrangements to conduct the election campaign peacefully on today or tomorrow.

3. However, Mr.T.N.Rajagopalan, learned Special Government Pleader appearing for the 1st respondent and Mr.Niranjana Rajagopal, learned counsel appearing for the respondents 2 and 3 would submit that already two FIRs are pending against the petitioner. Moreover, definitely there would be a law and order problem as the spot chosen by the petitioner for conducting the public meeting is not a suitable place. Therefore, the second respondent has rightly rejected the petitioner's request.

4. It is seen that the petitioner is a member of "Makkal Athikaaram". The said organisation already conducted meetings and two FIRs were registered against them. One of the FIRs was registered in Crime No.1181/2015 on the file of G7, Periamadu Police Station under Sections 147,148,448,427,353 and 506 (1) IPC and another one was registered in Crime No.373/2016 on the file of the F2, Egmore Police Station, under Sections 147,188, 341, 294(b), 323,324,353 I.P.C.

5. When the petitioner's organisation was already permitted and there was problem resulting in registering of two FIRs, at this juncture, when the election campaign is fast approaching, it may not be conducive to permit the petitioner to conduct a public meeting. The ground reality has been taken note by the second respondent and rightly denied the permission.

6. Moreover, this Court cannot act as an Appellate Authority, on the decision taken, under Article 226 of the Constitution of India. Though the freedom of expression is a fundamental right, there is a limitation. No right is absolute, especially when there is a possibility of law and order problem. Prevention is always better than cure, that too at the time of election, to the State Assembly. As the police has got responsibility to give protection to all the people and candidates and also to maintain law and order problem, the second respondent has rightly rejected the permission sought for by the petitioner.

7. Hence, the petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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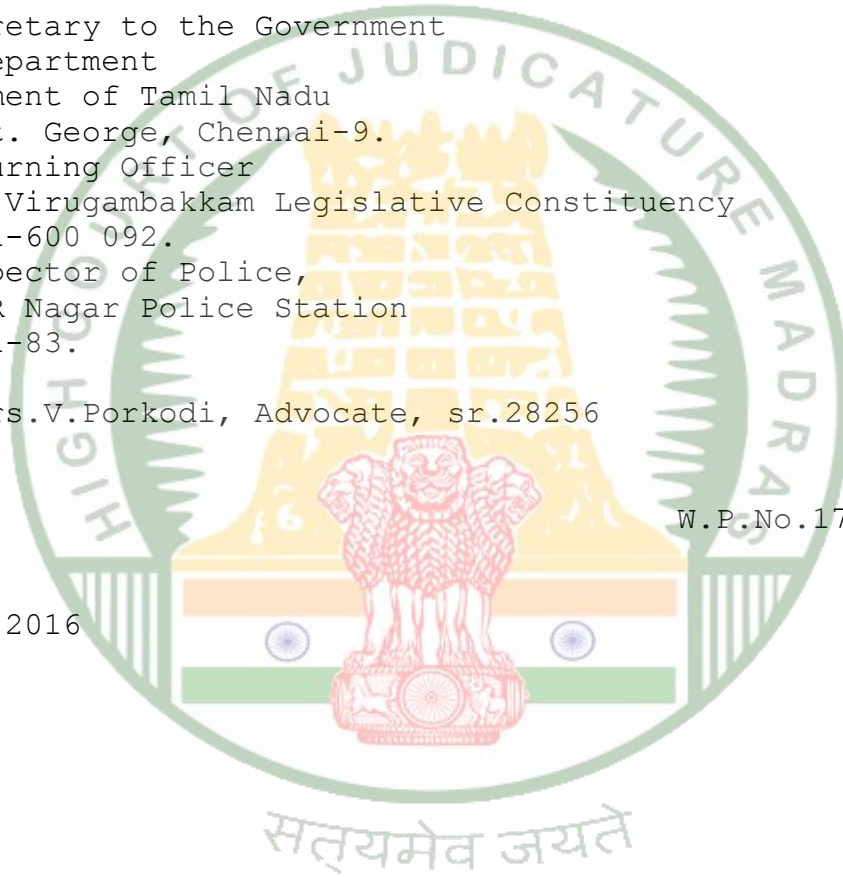
To:

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1 cc to Mrs.V.Porkodi, Advocate, sr.28256

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