

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.9602 of 2016

and W.M.P.No.8640 of 2016

C.Vaidyanthan Achari

... Petitioner

vs.

1.The Regional Divisional Officer,
Sub Collector Office,
Cuddalore-1.

2.The District Collector,
Cuddalore District,
Cuddalore-1.

3.The Superintendent of Police,
Cuddalore District,
Cuddalore-1.

4.The Deputy Superintendent of
Police,
Cuddalore Division,
Cuddalore District,
Cuddalore-1.

5.The Commissioner,
Cuddalore Municipality,
Cuddalore-1.

6.The Secretary,
State of Tamil Nadu,
HR & CE Department,
St. George Fort,
Chennai-9.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of certiorarified mandamus, to quash the order of the first respondent dated 9.3.2016 made in his proceedings in Na.Ka.A.2/01/2015 in so far as it restricts the right of the petitioner temple to draw the temple car during night time and consequently direct the respondents to permit the petitioner temple to take out the temple car during the night on the day of Panguni Uthiram

Festival every year as per the custom followed by the petitioner temple for the past 200 years and to provide the necessary protection and cooperation for the conduct of the Panguni Uthiram Festival as per the Sastras.

For Petitioner :Mr.T.S.Baskaran

For Respondents :Mrs.P.Rajalakshmi,
Govt. Advocate,
for R.1 to R.4
Mr.B.Anandan,
for R.5

ORDER

The petitioner has come up with the present writ petition for a mandamus, challenging the order of the first respondent dated 9.3.2016 made in his proceedings in Na.Ka.A.2/01/2015 in so far as it restricts the right of the petitioner temple to draw the temple car during night time and consequently, to direct the respondents to permit the petitioner temple to take out the temple car during the night on the day of Panguni Uthiram Festival every year as per the custom followed by the petitioner temple for the past 200 years and to provide the necessary protection and cooperation for the conduct of the Panguni Uthiram Festival as per the Sastras.

2. The case of the petitioner, in brief, is as follows:-

(a) The petitioner temple is a denominational one belonging to old Vishwakarma community residing at Old Town. The administration of the temple is vested with the Board of Trustees elected by the members of the community. The petitioner temple is a very old one and has been in existence for more than 200 years.

(b) The petitioner temple has a temple car, which is taken out in the Tamil month of Panguni. As per the age old practice of the temple, the temple car is taken out and pulled by the public on the specific roads intended for the said purpose in the month of Panguni, on the day when the star 'Uthiram' and Lagnam 'Maharam' falls. The general practice is that the petitioner temple celebrates a 14 day Panguni Uthiram Festival, culminating in the temple car festival on the 9th day.

(c) For the year 2015, Panguni Uthiram festival was scheduled to be held on 25.3.2015 and ended on 8.4.2015. The temple car festival was scheduled to take place on 4.4.2015 at

night. Hence, last year, the petitioner temple submitted their request to the respondents for their approval. The petitioner was apprehensive that the police authorities might refuse to give permission for the year 2015 to take out the temple car during night. Therefore, they approached this Court by filing a writ petition in W.P.No.8163 of 2015 seeking a direction to the respondents to permit the petitioner temple to take out the temple car during the night at Panguni Uthiram Festival as per the custom followed by the petitioner temple for the past 200 years and to provide necessary protection and cooperation for conducting the Panguni Uthiram Festival as per the Sastras. This Court, by order dated 26.3.2015, disposed of the said writ petition directing the respondents to consider the petitioner's representation and accord permission for drawal of temple car as per the time specified in their representation with a written undertaking of the petitioner to extend all cooperation and subject to the same, the police shall consider and grant permission to the temple car festival procession for the year 2015. Thereafter, the temple car festival took place on 4.4.2015 between 1.30 to 3.30 a.m. with police protection.

(d) Now, for the year 2016, the temple car festival is scheduled to be celebrated from 13.3.2016 to 27.3.2016. Hence, they submitted the time schedule to the first respondent. But, the first respondent has passed an order dated 9.3.2016, by imposing certain conditions to run the temple car festival such as --

(i) The temple car festival should take place only between 6.00 a.m. to 6.00 p.m. on 23.3.2016;

(ii) The petitioner shall obtain pre-stability certificate from PWD department;

(iii) The petitioner shall pay insurance prior to temple car festival;

(iv) The petitioner shall co-ordinate with Electricity Board and should take care of the electric lines running in the streets, where temple car is expected to run.

The petitioner is ready to abide by all the conditions imposed by the first respondent except the timings for taking the temple car in procession. The authorities are bound to grant permission for the celebration as per the custom. Hence, the petitioner has come forward with the present writ petition for the relief set out earlier.

3. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner produced the copy of the order of this Court dated 26.3.2015 made in W.P.No.8163 of 2015.

4. Learned Government Advocate appearing for the respondents 1 to 4 seriously opposed to grant such permission.

5. However, learned counsel appearing for the petitioner submitted that last year also, the same temple car festival was performed smoothly pursuant to the direction of this Court. Thus, he sought for permission to conduct the temple car festival in this year also.

6. Keeping the submissions made on either side, I have carefully gone through the entire materials available on record.

7. Considering the facts and circumstances of the case and considering the fact that last year also, pursuant to the direction given by this Court in W.P.No.8163 of 2015 dated 26.3.2015, the temple car festival was conducted in a smooth manner, I am of the opinion, following the earlier order, similar direction could be given to the petitioner.

8. Accordingly, the present writ petition is disposed of, on the following terms:-

(i) The petitioner is directed to give a fresh representation to the first respondent seeking permission for drawal of temple car by mentioning the specific time and date as per the custom, along with a copy of this order, within a period of two days from the date of receipt of a copy of this order;

(ii) On receipt of the same, the first respondent is directed to consider the same and pass appropriate orders, by reviewing the earlier order, permitting the petitioner temple to take out the temple car during the night on the day of Panguni Uthiram Festival as per the custom followed by the petitioner temple for the past 200 years and to provide the necessary protection and cooperation for the conduct of the Panguni Uthiram Festival as per the Sastras, within a period of two days thereafter;

(iii) The petitioner shall also give a written undertaking that they will extend all cooperation to the respondent police to ensure that worshipping public assemble in a peaceful manner and others will abide the rules and conditions of the respondent police scrupulously.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Regional Divisional Officer,
Sub Collector Office,
Cuddalore-1.
- 2.The District Collector,
Cuddalore District,
Cuddalore-1.
- 3.The Superintendent of Police,
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- 4.The Deputy Superintendent of
Police,
Cuddalore Division,
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- 5.The Commissioner,
Cuddalore Municipality,
Cuddalore-1.
- 6.The Secretary,
State of Tamil Nadu,
HR & CE Department,
St. George Fort,
Chennai-9.

+1cc to M/S.T.S.Baskaran, Advocate Sr.17110

W.P.No.9602 of 2016

sns (CO)
srg (18/03/2016)