



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

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THE HON'BLE DR. JUSTICE S.VIMALA

W.P(MD) No.16589 of 2016

WEB COPY

M.Shakul Hameed

... Petitioner

-vs-

1. The District Magistrate / District Collector,
Trichy District.
2. The Commissioner of Police,
Trichy City.
3. The Deputy Commissioner of Police,
(Law and Order)
Trichy City.
4. The Inspector of Police,
K.K.Nagar Police Station,
Trichy.
5. The Inspector of Police,
Thillai Nagar Police Station,
Trichy

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Mandamus, directing the respondents herein to accord necessary permission and police protection for conducting the MARATHON RUN on 04.09.2016 on the basis of the petitioner representation dated 04.08.2016 forthwith.

For Petitioner : Mr.K.P.S.Palanivel Rajan
For Mr.B.Jameel Arasu

For Respondents : Mr.B.Pugazhenthir
Addl. Advocate General
Asst. by Mr.R.Karthikeyan
Addl. Govt. Pleader

O R D E R

This petition has been filed, seeking to direct the respondents herein to accord necessary permission and police protection for conducting the **Marathon Run** on 04.09.2016, in the light of the representation dated 04.08.2016.



2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. This petition has been submitted by Jamaat-e-Islami-Hind, Trichy stating that the Marathon Run has been organized in order to create awareness among people on peace and humanity.

4. Learned counsel for the petitioner has submitted that this petition dated 04.08.2016 has neither been rejected nor the petitioner has been advised to approach the competent authority, where the respondent claims that District Magistrate alone is the competent authority and therefore, it is a fit case for grant of writ of mandamus.

5. It is the contention of the petitioner that permission has been granted for the prize distribution function to be conducted on 04.09.2016 pursuant to the event of Marathon Run and therefore, there is no meaning in refusing permission to conduct the event itself.

5.1. This contention cannot be correct, as the permission granted to conduct prize distribution function does not appear to be an informed decision after having derived complete knowledge about the event to be conducted.

5.2. Contending that there had been directions by this Court to grant permission, a decision reported in W.P.Nos.28677 to 28683 of 2014 dated 07.11.2014 is relied upon where-under it has been held that Section 41-A of the Chennai City Police Act and Section 30(2) of the Police Act provide only for regulation not prohibition. This contention cannot be accepted, as permission to conduct a particular event depends upon facts and circumstances of each case. The purpose for which an event is organized, the participants of the event, likelihood of breach of peace on account of that event, the inconvenience to the public, etc., are relevant factors to be considered while granting permission.

6. Per contra, learned Additional Advocate General appearing for the respondents opposed the application on the following grounds:

i) the writ petition itself is not maintainable, as the petition has not been addressed to the competent authority. It is pointed out that the District Magistrate is the competent authority, but the petition has not been submitted to him and hence, the writ petition is not maintainable.

<https://hcservices.ecourts.gov.in/hcservices/>

6.1. This contention cannot be accepted, as when a petition is presented to an authority, who has no jurisdiction to deal



with the matter and it is for that authority concerned to return the petition for being presented to the competent / proper authority. That has not been done. In any event, the authorities to which the petition has been addressed should have rejected the petition and even that has not been done.

b) The 2nd contention is that when the administrative authority, who has got special knowledge and competence to handle the issue like law and order problems, takes a decision, courts are expected to be very slow in interfering with the same and that the decision not to permit the event has been taken by the respondents only in public interest and therefore, the writ petition should be dismissed. In support of this contention, the following decisions are relied upon:

i) **Ramji Lal Modi vs. State of U.P.**, reported in **1957 AIR 620**

In the first place el. (2) of Art. 19 protects a law imposing reasonable restrictions on the exercise of the right to freedom of speech and expression "in the interests of" public order, which is much wider than "for maintenance of" public order. If, therefore, certain activities have a tendency to cause public disorder, a law penalising such activities as an offence cannot but be held to be a law imposing reasonable restriction "in the interests of public order" although in some cases those activities may not actually lead to a breach of public order.

ii) **State of Karnataka and another vs. Dr. Praveen Bhai Thogadia**, reported in (2004) 4 SCC 684

Courts should not normally interfere with matters relating to law and order which is primarily the domain of the concerned administrative authorities. They are by and large the best to assess and to handle the situation depending upon the peculiar needs and necessities, within their special knowledge. Their decision may involve to some extent an element of subjectivity on the basis of materials before them. Past conduct and antecedents of a person or group or an organisation may certainly provide sufficient material or basis for the action contemplated on a reasonable expectation of possible turn of events, which may need to be avoided in public interest and maintenance of law and order. No person, however, big he may assume or claim to be, should be allowed irrespective of the position he may assume or claim to hold in public life to either act in a manner or make speeches which would destroy secularism recognised by the Constitution of India, 1950 (in short the 'Constitution').

Iii) **K. Johnson vs. The Superintendent of Police (W.P. (MD)**

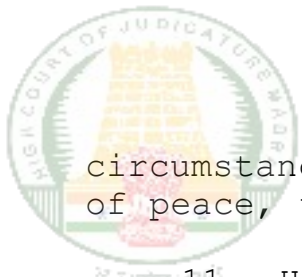
No. 22678 of 2015) decided on 22.12.2015;

<https://hcservices.ecourts.gov.in/hcservices/>

12. A perusal of the earlier order of this Court dated 23.12.2014 passed in W.P. (MD) No. 20654 of 2014,



10. One another contention taken is that because of the fast moving season during the Vijayagar Chathurthi on 05.09.2016 and Bakrid on 13.09.2016, it would be difficult for the respondents to permit the petitioner to conduct the event. Under the stated



circumstances, i.e., in consideration of the likelihood of breach of peace, the writ of mandamus is rejected.

11. However, learned counsel for the petitioner submitted that the petitioner is prepared to get the event postponed to some other date. In the event of the petitioner submitting such a petition, it is for the respondents to consider the representation and to pass appropriate orders on merits and in accordance with law.

With the above direction, the writ petition is disposed of. No costs.

Sd/
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

To:

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Trichy District.
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Trichy

+1cc to M/S.B.Jameel Arasu, Advocate in SR.No.50138

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02.09.2016

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