



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2016

CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO  
and  
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Petition (MD) No.16777 of 2016

R.Kannan,  
Visvahindu Parisath Nagara President,  
Perumandi South Street Santhu,  
Melakaveri Post,  
Kumbakonam - 612 002.

... Petitioner

-Vs-

1.The District Collector,  
Thanjavur District, Thanjavur.

2.The Superintendent of Police,  
Thanjavur District, Thanjavur.

3.The Commissioner,  
Kumbakonam Municipality,  
Kumbakonam.

4.The Deputy Superintendent of Police,  
Kumbakonam, Thanjavur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the 2nd and 4th respondents not to grant any permission to the political party to conduct public meeting, campaign, demonstration and protest in the nearest of Gandhi Park situated Town Hall Road, Kumbakonam Municipality, Thanjavur District, by considering the petitioner's representation dated 12.08.2016.

For Petitioner : Mr.B.Anandan

For Respondents : Mr.S.Chandrasekar, Government Advocate

ORDER

(Order of the Court was made by Nooty.Ramamohana Rao,J)

This Writ Petition has been instituted as a Public Interest Litigation by a resident of Melakaveri Post, Kumbakonam, seeking writ of mandamus directing the respondents 2 and 4 not to grant any permission to any political party to



conduct public meetings, campaign, demonstration or protest sittings in and around Gandhi Park situated at Town Hall Road, Kumbakonam by considering the writ petitioner's representation dated 12<sup>th</sup> August, 2016.

2. The case of the petitioner is that whenever public meetings or demonstrations are conducted, the academic activity of nearly 3,200 students studying in a closeby higher secondary school is adversely impacted. The school was functioning for the past 150 years and one of the India's proudest son Shri.Ramanujnam, the genius of mathematics par excellence, has studied in that school. It is also pointed out that loud speakers are used without any regard for the inconvenience and pollution they cause in the process to the rest of the residents of the locality. The petitioner is upset that the silence which is observed meticulously in the nearby Gopal Rao Memorial Classical Library and Government District Library, also gets shattered. The park is itself located in a very busy locality and consequently, the normal life of several hundreds and thousands of people gets impacted every time a meeting or a demonstration or a protest sitting is organised by one political party or the other. Hence, this Writ Petition.

3. We are afraid that we cannot entertain and grant the relief as prayed for, in view of the views expressed by the Supreme Court in the decision reported in AIR 1962 SC 171 (All India Bank Employees' Association Vs. National Industrial Tribunal and others) and the Constitution Bench judgment of the Supreme Court reported in AIR 1973 SC 87 (Himmat Lal K.Shah Vs. Commissioner of Police). It would be profitable for us to note that Mathew, J., in AIR 1973 SC 87, while agreeing with the conclusion of the learned Chief Justice, in his independent opinion, has set out as under:

"60. Freedom of assembly is an essential element of any democratic system. At the root of this concept lies the citizens' right to meet face to face with others for the discussion of their ideas and problems-religious, political,, economic or social. Public debate and discussion take many forms including the spoken and the printed word, the radio and the screen. But assemblies face to face perform a function of vital significance in our system, and are no less important at the present time for the education of the public and the formation of opinion than they have been in our past history. The basic assumption in a democratic polity is that Government shall be based on the consent of the governed. But the consent of the governed implies not only that the consent shall be free but also that it shall be grounded on adequate information and discussion. Public streets are the 'natural' places for expression of opinion and dissemination of ideas.



Indeed it may be argued that for some persons these places are the only possible arenas for the effective exercise of their freedom of speech and assembly.

61. Public meeting in open spaces and public streets forms part of the tradition of our national life. In the pre- Independence days such meetings have been held in open spaces and public streets and the people have come to regard it as a part of their privileges and immunities. The State and the local authority have a virtual monopoly of every open space at which an outdoor meeting can be held. If, therefore., the State or Municipality can constitutionally close both its streets and its parks entirely to public meetings, the practical result would be that it would be impossible to hold any open air meetings in any large city. The real problem is that of reconciling the city's function of providing for the exigencies of traffic in its streets and for the recreation of the public in its parks' with its other obligations, of providing adequate places for public discussion in order to safeguard the guaranteed right of public Assembly."

4. It would also be extremely profitable to notice the words of wisdom spoken to by Lord Bridge of Harwich in his opinion rendered in *Hector v. Attorney General of Antigua & Others* (1990) 2 AC 312:

"In a free democratic society it is almost too obvious to need stating that those who hold office in government and who are responsible for public administration must always be open to criticism. Any attempt to stifle or fetter such criticism amounts to political censorship of the most insidious and objectionable kind. At the same time it is no less obvious that the very purpose of criticism levelled at those who have the conduct of public affairs by their political opponents is to undermine public confidence in their stewardship and to persuade the electorate that the opponents would make a better job of it than those presently holding office. In the light of these considerations their Lordships cannot help viewing a statutory provision which criminalises statements likely to undermine public confidence in the conduct of public affairs with the utmost suspicion."

<https://hcservices.courts.gov.in/hcservices/> 5. The view point of Mathew, J., while concurring with the judgment rendered by the learned Chief Justice of India in the above case, settles the legal principle, and hence, no democratic



right can be curtailed in absolute terms as prayed for by the petitioner.

6. However, there is one aspect to the entire matter that is with regard to the sound pollution that might be caused. Therefore, the respondents would grant the necessary permissions for conducting meetings or Dharnas, etc., near about Gandhi Park, Kumbakonam, subject to strict adherence of permissible sound decibels prescribed by the Pollution Control Board subject to the above observation, the Writ Petition stands disposed of after hearing the learned Government Advocate who has accepted notice on behalf of the respondents. No costs.

Sd/  
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar.

Copy to

- 1.The District Collector,  
Thanjavur District, Thanjavur.
- 2.The Superintendent of Police,  
Thanjavur District, Thanjavur.
- 3.The Commissioner,  
Kumbakonam Municipality,  
Kumbakonam.
- 4.The Deputy Superintendent of Police,  
Kumbakonam,  
Thanjavur District.

+1CC to M/S.B.Anandam, Advocate, SR.No. 50085

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