



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2016

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

W.P.(MD) No.7075 of 2016

and

W.M.P.(MD) No.6010 of 2016

Amsaraj

... Petitioner

-vs-

1.The Assistant Electoral Officer,
191, Madurai North Constituency,
Madurai.

2.The Assistant Commissioner of Police,
Tallakulam (L&O), Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records of the impugned proceedings issued by the 1st respondent vide Na.Ka.No. 2/2016 dated 01.04.2016 and to quash the same as illegal and consequently direct the respondents to grant permission to the petitioner's sweeper sangam to garland and to pay tribute to Dr.Ambedkar's Statue by taking the route from Tamilannai Statue to Dr.Ambedkars Statue which is a straight road.

For Petitioner : Ms.A.Rajini

For Respondents : Mr.K.Chellapandian
Additional Advocate General
Assisted by
Mr.D.Muruganandam,
Addl. Govt. Pleader

O R D E R

This writ petition has been filed to call for the records of the impugned proceedings issued by the first respondent vide Na.Ka.No. 2/2016 dated 01.04.2016 and to quash the same as illegal and consequently direct the respondents to grant permission to the petitioner's sweeper sangam to garland and to pay tribute to Dr. Ambedkars Statue by taking the route from Tamilannai Statue to Dr. Ambedkar's Statue which is a straight road.



2. Heard both sides.

3. It is seen that the petitioner made an application to the respondent police, seeking permission to go in procession from Tamil Annai Statue for garlanding the statue of Dr.Ambedkar, located near Tallakulam outpost, which was rejected by the authorities by the impugned order, on the ground that when Viduthalai Siruthai Katchi was permitted to take out such procession recently, law and order problem arose, resulting in the Police registering a case in Crime No.1382 of 2016 for offences under Sections 143, 188 and 341 IPC. That apart, it is stated in the impugned order that the said road is one way thoroughfare and around 400 to 500 people go in procession, which will cause disturbance to public.

4. The learned Additional Advocate General contended that the State has no objection, if the members of the petitioner's Sangam garland the statue of Dr.Ambedkar on 14.04.2016 for Dr.Ambedkar's birthday celebrations, but if they go on procession, there is a likelihood of law and order problem arising.

5. Ms.A.Rajini, learned Counsel appearing for the petitioner submitted that the petitioner has got a fundamental right to go in procession and that cannot be curtailed.

6. The Honourable Supreme Court, in State of Karnataka and another V. Dr.Praveen Bhai Thogadia reported in AIR 2004 SUPREME COURT 2081, has held as follows:

"The imminent need to intervene instantly having regard to the sensitivity and perniciously perilous consequences it may result in, if not prevented forthwith cannot be lost sight of . The valuable and cherished right of freedom of expression and speech may at times have to be subjected to reasonable subordination of social interests, needs and necessities to preserve the very chore of democratic life - preservation of public order and rule of law. At some such grave situation at least the decision as to the need and necessity to take



prohibitory actions must be left to the discretion of those entrusted with the duty of maintaining law and order, and interposition of Courts - unless a concrete case of abuse or exercise of such sweeping powers for extraneous considerations by the authority concerned or that such authority was shown to act at the behest of those in power, and interference as a matter of course and as though adjudicating an appeal, will defeat the very purpose of legislation and legislative intent."

7. This Court cannot sit in judgment over the perceptions of the Executive Authorities who are better informed on these aspects. That apart, the model code of conduct is in force, as the elections to the Tamil Nadu Assembly is round the corner. Hence, this Court cannot quash the impugned order and grant permission to the petitioner Sangam to go in procession. However, the members of the petitioner Sangam cannot be prevented from garlanding the Statue without causing disturbance to the public.

8. With the above observations, this Writ Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar.

To:

- 1.The Assistant Electoral Officer,
191, Madurai North Constituency,
Madurai.
- 2.The Assistant Commissioner of Police,
Tallakulam (L&O), Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.A.. Rajini, Advocate, SR.No. 20461

+1CC to the Special Government Pleader, SR.No. 20557

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