

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2017

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.Nos.637 to 641 of 2017

And

W.M.P.Nos.690 to 694 of 2017

W.P.No.637 of 2017:

V.S.Rajkumar

... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.
- 2 The Director of General of Police
Mylapore,
Chennai - 600 004.
- 3 The Commissioner of Police,
Egmore, Chennai - 600 008. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to permit the petitioner and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe), lead by a musical band from Kannagi Statute, Marina Beach to Gandhi Statute, Marina Beach, Chennai Via Inner Road on 29.01.2017 at 04.00 PM based on the petitioner's representation dated 20.12.2016 addressed to the 1st to 3rd respondents.

W.P.No.638 of 2017:

R.Karunagaran

... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.
- 2 The Director of General of Police
Mylapore,
Chennai - 600 004.
- 3 The Superintendent of Police
Vellore District.
- 4 Deputy Superintendent of Police,
Vellore City,
Vellore District. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to permit the petitioner and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe), lead by a musical band from New Municipal Office to Anna Kalaiarangam Via Fire Office, Anna Salai Kirubanandha Variyar Salai, Makkan Signal, Vellore on 29.01.2017 at 04.25 PM based on the petitioner's representation dated 19.12.2016 addressed to the 1st to 4th respondents.

W.P.No.639 of 2017:

A.Magesh Kumar

... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.

2 The Director of General of Police
Mylapore,
Chennai - 600 004.

3 The Superintendent of Police
Erode District.

4 Deputy Superintendent of Police,
Erode Town,
Erode District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to permit the petitioner and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe), lead by a musical band from any one of the following routes viz., 1) Periyar Nagar 80 Ft. Road, Kalimagal School Road, Sengunthar School Ground 2) Agrahara Street, Ragavendrhar Koil, Agrahara street, Eswaran Koil Street, Thillai Nagar Sengunthar School Ground 3) Manickam Palayam Ground, Periyavalasu Naal Road, Municipal Colony, Mettur Road, V.O.C. Park on 22.01.2017 at 05.00 PM based on the petitioner's representation dated 19.12.2016 addressed to the 1st to 4th respondents.

W.P.No.640 of 2017:

R.Prakash

... Petitioner

Vs.

1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.

2 The Director of General of Police
Mylapore,
Chennai - 600 004.

3 The Superintendent of Police
Kancheepuram District.

4 Inspector of Police,
BII Vishnu Kanchi Police Station,
Kancheepuram. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to permit the petitioner and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe), lead by a musical band from Rangasami Kulam, Kancheepuram to near Sri Kachabeswarar Temple, Kancheepuram on 29.01.2017 at 05.00 PM based on the petitioner's representation dated 19.12.2016 addressed to the 1st to 4th respondents.

W.P.No.641 of 2017:

S.V.Stalin ... Petitioner

Vs.

- 1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.
- 2 The Director of General of Police
Mylapore,
Chennai - 600 004.
- 3 The Commissioner of Police
Salem Corporation.
- 4 Inspector of Police,
Hasthampatti Police Station,
Salem - 636 007. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to permit the petitioner and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe), lead by a musical band from Maravaneri, Salem to Maravaneri, Salem Via Ambedkar

Statue, Sahadevapuram, Rajaram Nagar, Vanniyar Mandapam, Shankar Nagar, Kiruba Hospital Vincent, Yellai Pidari Amman Koil, Salem on 29.01.2017 at 03.30 PM based on the petitioner's representation dated 20.12.2016 addressed to the 1st to 4th respondents.

For Petitioners : Mr.Chandrasekaran
for M/s.B.Rabumanohar
For Respondents : Mr.S.Rajeswaran
Special Government Pleader

C O M M O N O R D E R

By consent, the writ petitions are taken up for final disposal.

2.These writ petitions have been filed seeking to direct the respondents to permit the petitioners and the members of the Rashtreeya SwyamSevak Sangh to conduct a procession (Route March) in their uniform (Black Cap, White Shirt, Brown Belt and Olive brown full trousers and Black Shoe) on 29.01.2017, 29.01.2017, 22.01.2017, 29.01.2017 and 29.01.2017 respectively by considering their respective representations sent to the respondents.

3.The petitioners had made representation to the respective respondents seeking permission to conduct a procession and since, they have not yet been considered, has come forward to file these writ petitions.

4.The learned counsel appearing for the petitioners in support of his contentions, invited the attention of this Court to the order dated 03.10.2016 made in W.P.Nos.34440 to 34453 of 2016. He further submitted that the petitioners will abide by all the conditions imposed in the order cited and will also abide by the conditions that is to be imposed by the Police in the event of granting permission to conduct the procession. He would further state that the petitioners had followed the conditions imposed in the order cited, in the earlier occasion and would further state that there was no untoward incident and prayed for appropriate directions.

5.The learned Special Government Pleader who accepts notice on behalf of the respondents would state that the representation made by the petitioners are under process and it has to be considered taking into consideration the regulations and various other factors.

6. Heard the submissions made on either side. It is useful to extract the relevant portion of the order dated 03.10.2016 made in W.P.Nos.34440 to 34453 of 2016 hereunder:

"6.I heard the learned counsel for the petitioners as well as the learned Special Government Pleader for the respondents. On earlier occasion, at the instance of the petitioners herein, this Court passed an order on 08.01.2016 in W.P.No.53 of 2016 etc., batch wherein it was observed as follows:-

11. Therefore, this Court is of the view that even on the construction of Section 41-A of the Act, the petitioners are entitled to succeed. Coming to other two issues pertaining to the usage of sticks and clubs and the musical instruments, the said condition also cannot be sustained. There is absolutely no material to hold that mere usage of musical instruments would cause law and order situation affecting public peace. Similarly, the petitioners are not using sticks and clubs by way of arms in which case certainly, Section 41-A of the Act would be attracted. When the usage is for the purpose of musical instruments, they would form part of the said instruments and therefore, they cannot be termed as sticks. Therefore, the said conditions imposed cannot be sustained in the eye of law.

12. Accordingly, writ petitions in W.P.Nos.777 and 778 of 2016 stand allowed and the two conditions aforesaid are hereby set aside. However, it is made clear that the petitioners will have to strictly comply with the other conditions imposed by the respondents. In view of the order passed in W.P.Nos.777 and 778 of 2016, the relief sought for in W.P.Nos.53 and 54 of 2016 no longer survives and the said writ petitions are dismissed as infructuous. No costs. Consequently, the connected miscellaneous petitions are dismissed.

7. It is evident that on the earlier occasion, the very same plea raised by the petitioners, seeking permission to take out a procession was considered by this Court.

8. Having regard to the submissions made by the learned counsel for the petitioners and the undertaking

given before this Court that the petitioner will abide by any condition that may be imposed by this Court, this Court feels that interest of justice demands that a direction as prayed for by the petitioners can be issued to the respondents subject to the condition that the petitioners shall abide by the conditions that are imposed by this Court and if any to be imposed by the respondents. The petitioners are directed that they should not use lathis at the time of taking out the procession. The petitioners are also directed to abide by the time and route within which they should take out the procession as may be specified by the respondents. It is however made clear that the petitioners can take musical instruments and the procession can be lead by a band. The respondents are directed to consider the claim of the petitioners to grant them permission to take out procession in the respective routes and appropriate orders to that effect shall be passed by the respondents on or before 30th October 2016 so as to enable the petitioners to take out the procession."

7. Considering the submissions made by the learned counsel appearing for the petitioners that the petitioners will abide by all the conditions imposed in the order dated 03.10.2016 made in W.P.Nos.34440 to 34453 of 2016 and will also abide by the conditions that is to be imposed by the Police in the event of granting permission to conduct the procession and since according to him, the petitioners had followed the conditions imposed in the earlier occasions and that there was no untoward incident, this Court directs the respondents to consider the representation of the petitioners with regard to grant of permission to conduct a procession, in the light of the order dated 03.10.2016 made in W.P.Nos.34440 to 34453 of 2016 and pass orders on or before 20th January, 2017 so as to enable the petitioner to take out the procession smoothly.

8. The writ petitions are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are also closed.

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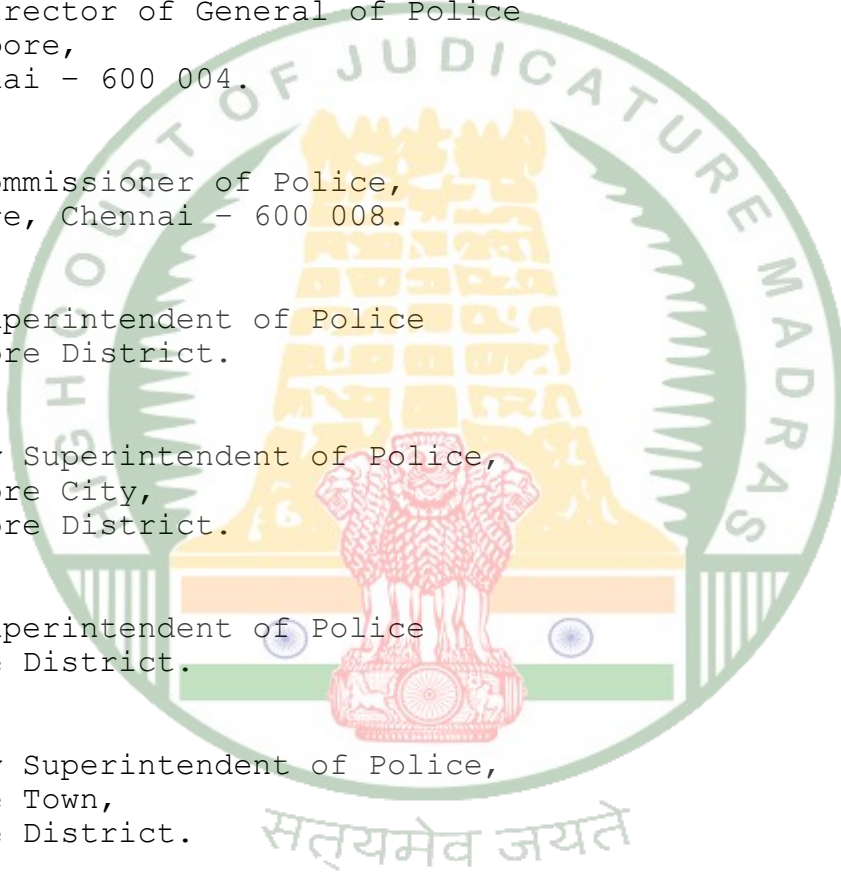
Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

- 1 The State of Tamil Nadu
Rep by its Secretary,
Home Department,
Fort St.George
Chennai - 600 009.
- 2 The Director of General of Police
Mylapore,
Chennai - 600 004.
- 3 The Commissioner of Police,
Egmore, Chennai - 600 008.
- 4 The Superintendent of Police
Vellore District.
- 5 Deputy Superintendent of Police,
Vellore City,
Vellore District.
- 6 The Superintendent of Police
Erode District.
- 7 Deputy Superintendent of Police,
Erode Town,
Erode District.
- 8 The Superintendent of Police
Kancheepuram District.
- 9 Inspector of Police,
BII Vishnu Kanchi Police Station,
Kancheepuram.
- 10 The Commissioner of Police
Salem Corporation.



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11 Inspector of Police,
Hasthampatti Police Station,
Salem - 636 007.

+5cc to Mr.Rabu Manohar, Advocate Sr.2278,2277,2276,2275,2274
+1cc to the Government Pleader Sr.2624

W.P.Nos.637 to 641 of 2017
And

W.M.P.Nos.690 to
694 of 2017

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srg 12/01/2017



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