

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAISWAMY

W.P.No.8530 of 2017 and
W.M.P.No.9317 of 2017

C.Vaidyanathan Achari
Executive Trustee,
Sri Kamachi Amman Devasthanam,
Cuddalore - 3. ... Petitioner

Vs.

1. The Regional Divisional Officer,
Sub Collector Office, Cuddalore-1.
2. The District Collector,
Cuddalore District, Cuddalore - 1.
3. Superintendent of Police,
Cuddalore District, Cuddalore - 1.
4. 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 - 600 009. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus and to quash the order of the 1st respondent dated 05.04.2017 made in proceedings in Oo.Mu.Aa2/743/2017 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 Panguni Uthiram festival every year as per the custom followed by the petitioner temple for the past 200 years and to provide necessary protection and co-operation for the conduct of the Panguni Uthiram festival as per the Sastras.

For Petitioner : Mrs.Chitra Sampath, Senior Counsel
for Mr.T.S.Baskaran

For Respondents: Mr.A.N.Thambidurai,
Special Government Pleader

O R D E R

The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus to quash the order of the 1st respondent dated 05.04.2017 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 Panguni Utharam festival every year as per the custom followed by the petitioner Temple for the past 200 years and to provide necessary protection and co-operation for the conduct of the Panguni Uthiram festival as per the Sastras.

2.According to the petitioner, the petitioner Temple is a denominational temple, belonging to old Vishwakarma Community residing at Old Town (O.T.), Cuddalore. The administration of the Temple is vested in the Board of Trustees elected by the members of the Community. The right of the above Community had been upheld in various proceedings before this Court and the petitioner Temple is a very old one and had been in existence for the last more than 200 years. According to the petitioner, the Temple had been constructed as per Agama Sastras and it has been meticulously adopting various religious rituals and festivals.

3.The petitioner Temple has a Temple Car, which is taken out in the Tamil month of Panguni and as per the age old practice of the Temple, the Temple Car is taken out and pulled by the public on specific roads, intended for the said purpose, in the Tamil month of Panguni, on the day when the Star "Utharam" and Lagnam "Magharam" falls, which is invariably during midnight. The Temple Car is taken out and it runs through Shree Kamatchi Ammal Koil Street, Sanjeevarayan Koil Street, Irusappa Chettiar Street, Kasukudi Street and finally, just before the sunrise, the Temple Car reaches the Temple. Further, according to the petitioner, there are several rituals and festivals which precede and follow the say of Temple Car festival. The general practice is that the petitioner Temple celebrates 14 day Panguni Utharam festival, culminating in the Temple Car festival on the 9th day. The Temple Car festival will be held during the night hours (i.e.) during 1.00 a.m., and 02.30 a.m., and large number of general public will participate in the Temple Car procession. The Temple Car festival had been conducted for more than 200 years as per Agama Sastras.

4. For the year 2015, the Panguni Utharam festival was scheduled on 25.03.2015 and ended on 08.04.2015. The Temple Car festival was scheduled to take place on 04.04.2015 during night hours. The petitioner Temple had submitted their request to the respondents for their approvals. However, the respondents/authorities failed to pass orders, granting permission for conducting the Temple Car festival as per the schedule. Hence, the petitioner had filed a Writ Petition in W.P.No.8163 of 2015 to issue a writ of mandamus seeking for a direction to the respondents to permit the petitioner Temple to take out the Temple Car during the night hours during the Panguni Utharam festival as per the custom followed by the petitioner Temple for the past 200 years and to provide necessary protection and co-operation for the conduct of Panguni Utharam festival as per the Sastras. This Court, by order dated 26.03.2015, disposed of the said Writ Petition by 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 co-operation 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 04.04.2015 between 01.30 a.m., and 03.30 a.m., with police protection. According to the petitioner, there was no disturbance or nuisance created by public and fullest co-operation was rendered by the petitioner Temple also.

5. Similarly, for the year 2016, the petitioner had submitted the time schedule to the respondents on 03.02.2016 seeking permission for conducting Temple Car festival. However, the 1st respondent, by order dated 09.03.2016, imposed restrictions with regard to the timings. Aggrieved over the order of the 1st respondent dated 09.03.2016, the petitioner preferred a Writ Petition in W.P.No.9602 of 2016 before this Court and by its order dated 17.03.2016, this Court had directed the 1st respondent to review the impugned order and permit the petitioner Temple to take out the Temple Car during the night hours on the day of Panguni Utharam festival as per the customs followed by the petitioner Temple for the past 200 years and provide necessary protection and co-operation for the conduct of the Panguni Utharam festival as per the Sastras. Pursuant to the orders of this Court dated 17.03.2016, the 1st respondent passed an order permitting the Temple Car procession in the night hours. Thereafter, the Temple Car festival took place on 23.03.2016 between 01.30 a.m., and 03.30 a.m., with police protection and there was no disturbance or nuisance created by public and fullest co-operation was rendered by the petitioner Temple.

6. Similarly, for the year 2017, the petitioner had submitted the time schedule for the ensuing Panguni Utharam festival for the year 2017 as early as on 15.02.2017 to the respondents herein for the festival commencing from 01.04.2017 to 15.04.2017. The Temple Car festival is scheduled to take place on 11.04.2017 at 01.00 a.m. By the impugned order dated 05.04.2017, the 1st respondent had imposed conditions for running the Temple Car festival on 11.04.2017.

7. On a reading of the impugned order passed by the 1st respondent, it could be seen that the order has been passed by the 1st respondent without following the earlier directions given by this Court in the Writ Petitions in W.P.No.8163 of 2015 and W.P.No.9602 of 2016 and also the orders passed by the 1st respondent for the years 2015 and 2016, pursuant to the directions given by this Court. Though the petitioner has given the representation as early as on 15.02.2017, the 1st respondent chose to pass the impugned order, imposing the conditions only on 05.04.2017, which was served on the petitioner only on 06.04.2017. The Temple Car festival is scheduled to take place in the early hours of 11.04.2017. When the petitioner Temple has given the representation as early as on 15.02.2017, the 1st respondent should have considered the same and passed orders at the earliest point of time. Since the impugned order has been passed at the last moment, the petitioner is put to hardship in approaching this Court at the last moment.

8. In these circumstances, for the future years, the 1st respondent shall pass necessary orders, at least within two weeks from the date of representation from the petitioner Temple for conducting the Temple Car procession. It is needless to say that the petitioner Temple shall also give the representation well in advance, enabling the 1st respondent to pass orders as stated above.

9. Since this Court had already permitted the petitioner Temple for drawal of Temple Car during night hours for the years 2015 and 2016, I do not find any reason to deviate from the said orders passed by this Court in the Writ Petitions.

10. Mrs. Chitra Sampath, learned senior counsel appearing for the petitioner submitted that the petitioner is ready to abide by all the conditions imposed by the 1st respondent, except the timings for taking the Temple Car in procession.

11. It is needless to say that the petitioner should extend all co-operation to the respondent police to ensure that worship and public assemble in a peaceful manner and others will abide by the rules and conditions of the respondent police scrupulously. The petitioner Temple shall also give a written

undertaking in this regard to the respondent police.

12.For the reasons stated above, the condition No.1 mentioned in the impugned order dated 05.04.2017 alone is modified by permitting the petitioner Temple to conduct the Temple Car procession after 01.00 a.m., on 11.04.2017. In other aspects, the impugned order dated 05.04.2017 passed by the 1st respondent shall remain unaltered.

13.With this modification, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-V)

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. Superintendent of Police,
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 5. The Commissioner,
Cuddalore Municipality,
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 6. The Secretary,
State of Tamil Nadu,
HR & CE Department,
St.George Fort, Chennai - 600 009.
- +2 Ccs to Mr. T.S. Baskaran, sr 21148

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SJ(CO)
sp/7/4