

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.25998 of 2017

Arappor Iyakkam
rep. by its Managing Trustee
Jayaram Venkatesan, 140A,
Rukmini Lakshmipathy Salai,
Egmore,
Chennai-600 008. ... Petitioner

Vs.

- 1.State of Tamil Nadu
rep. by its Secretary,
Home Department,
Fort St. George,
Chennai-600 009.
- 2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.
- 3.The Deputy Commissioner of Police,
Mylapore,
O/o.Deputy Commissioner of Police,
Kutchery Road,
Mylapore,
Chennai-4.
- 4.The Inspector of Police,
E-1, Mylapore Police Station,
Kutchery Road,
Mylapore, Chennai-4. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Declaration declaring that the order dated 04.10.2017 issued by the fifth respondent rejecting permission to the petitioner, Arappor Iyakkam to conduct the public meeting regarding Corruption in Tamil Nadu on 08.10.2017 from 5 p.m., to 9 p.m., at Mylapore Mangollai with the use of public address system as illegal and arbitrary and consequently, direct the respondents to immediately provide

Arappor Iyakkam with the permission to conduct the public meeting regarding Corruption in Tamil Nadu on 08.10.2017 from 5 P.M. to 9 P.M., at Mylapore Mangollai with the use of public address system.

Prayer amended as per order dated 05.10.2017 by MSRJ in Wmp.No.27855 of 2017 in W.P.No.25998 of 2017.

For Petitioner : Mr.V.Suresh

For Respondent : Mr.I.Manishankar, AAG,
Nos.1 to 4 Assisted by
Mr.D.Vairamoorthy,
Spl. Government Pleader

O R D E R

Heard Mr.V.Suresh, learned counsel for the petitioner as well as Mr.I.Manishankar, learned Additional Advocate General appearing for the respondents.

2.The petitioner organization is involved in social activities for the benefit of general public. Since the petitioner intended to organize a public meeting to address about the issue of corruption in Tamil Nadu, they had submitted a request on 11.09.2017 to the fourth respondent herein seeking permission to organise a public meeting in Mylapore Mangollai on 08.10.2017 between 5 p.m. to 9 p.m.

3.On 30.09.2017, the fourth respondent herein issued a show cause notice as to why permission should not be granted for conducting the said meeting. On the very next day, i.e., on 01.10.2017, the petitioner has given a detailed explanation establishing their right to freedom of speech and expression and to assemble peacefully. Since their reply was not considered in time, the present writ petition has been filed.

4.Today, when the matter was called, the learned Additional Advocate General produced the copy of the order dated 04.10.2017 passed by the Assistant Commissioner of Police, Mylapore Range rejecting the petitioner's request for permission. The said rejection order was passed on the ground that the respondent police had reliable information that the applicant was trying to instigate people for creating law and order problem under the guise of organizing a meeting. The said rejection order also remarks that by taking advantage of the situation, anti-social elements may also infiltrate into the public and indulge in anti social activities, creating ruckus.

5. Since the petitioner was not served with the rejection order at the time of filing the present writ petition, the petitioner has sought for a prayer seeking for a writ of declaration, declaring that the failure of the respondents to grant permission to conduct the public meeting as illegal and arbitrary.

6. I have given careful consideration to the submissions made by the learned counsel for the petitioner as well as the learned Additional Advocate General appearing on behalf of the respondents.

7. The legal proposition that Article 19(1)(a) of the Constitution of India guarantees every citizen, the fundamental right of freedom of speech and expression and Article 19(1)(b) confers the right to assemble peacefully and without arms is well established and not in dispute. In the present case, the apprehension of the respondents is that they have some reliable information that the petitioner was attempting to instigate people and create law and order problems under the guise of conducting the meeting and further, that anti social elements may take advantage of the situation and indulge in anti social activities. In other words, the petitioner's request has been rejected on two grounds namely,

a) the petitioner intends to instigate people for creating law and order problems and

b) there is likelihood of law and order problem from anti social elements.

8. I do not endorse the reasoning of the respondents for rejecting the petitioner's request for the simple reason that the police department has been created only for the purpose of tackling the above problems. Since it is the fundamental right of the petitioner to conduct such a meeting, if at all, the respondent is of the view that they intend to instigate people and thereby create law and order problem, it was always open to them to permit the petitioner to conduct the meeting by imposing conditions.

9. Likewise, if the respondents had apprehended that anti social elements may infiltrate with the public and indulge in anti social activities, adequate protection can be extended during the course of the meeting to ensure that such incidents are thwarted. While that being so, the rejection order may not be justified.

10. While the learned counsel for the petitioner relied upon the judgments of this Court reported in *Durai Sankar & Others V. State of Tamil Nadu* [2014 (5) LW 865] and in *P.Nedumaran V. State of Tamil Nadu* [1999 (1) LW (CrI.) 73] to substantiate his

ground that any restrictions imposed while granting permission cannot be done in an arbitrary manner, the learned Additional Advocate General by relying upon the judgment of the Hon'ble Division Bench of this Court reported in 2004 (4) LW 737 [Rama Muthuramalingam, State Propaganda Committee Member, Thanthai Periyar Dravidar Dazhagam, No.31, Nagaraja Iyer Colony, South Fourth Street, Mannargudi, Tiruvarur District V. 1.The Deputy Superintendent of Police, Mannargudi, Tiruvarur District and 2.The Inspector of Police, Mannargudi Police Station, Tiruvarur District] submitted that if at all, any permission is ordered to be given, they would be subjected to the restrictions and conditions to be imposed for the purpose of preventing any likelihood of law and order problem. Since it is the apprehension of the respondent police that there could be likelihood of disturbance in the law and order situation during the course of meeting, it would be appropriate to permit the respondent to impose reasonable restrictions while granting such permission. At this juncture, it would be appropriate to point out that the restrictions should be reasonable, what is meant is that the same should not be arbitrary and take away the freedom of speech over the issue of corruption, which issue is intended to be propagated in the meeting.

11. There is no quarrel with the above said legal propositions. It is no doubt that the petitioner has a right to peacefully assemble without arms and conduct a public meeting to propagate their principles. Likewise, the respondent being the authority to ensure that no untoward incident happen during the course of meeting, is also empowered to regulate the conduct of the meeting.

12. At this juncture, the learned Additional Advocate General submitted that the petitioner may be directed to approach the Deputy Commissioner of Police, Mylapore, Chennai, seeking for permission and the same will be granted by imposing reasonable restrictions.

13. In view of my aforesaid observations, the petitioner is granted liberty to approach the third respondent herein namely, the Deputy Commissioner of Police, Mylapore, Chennai, seeking for permission to conduct the public meeting and on receipt of the same, the third respondent herein shall accord necessary permission for conducting the meeting on the date requested by the petitioner by imposing reasonable restrictions. Such a permission shall be granted on the same day, when the application is made by the petitioner.

14.With the above observations and direction, the Writ Petition stands ordered in the above terms. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

DP
To

1.The Secretary,
Home Department,
Fort St. George,
Chennai-600 009.

2.The Commissioner of Police,
Greater Chennai,
Vepery, Chennai-7.

3.The Deputy Commissioner of Police,
Mylapore,
O/o.Deputy Commissioner of Police,
Kutchery Road,
Mylapore,
Chennai-4.

4.The Inspector of Police,
E-1, Mylapore Police Station,
Kutchery Road,
Mylapore, Chennai-4.

+ 1 cc to Mr.D. Nagasaila, Advocate SR.71507

MR(CO)
EU(06/10/2017)

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