

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM :

The Hon'ble Ms.INDIRA BANERJEE, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.SUNDAR

W.P. No.19161 of 2017

M.R.Saravanan .. Petitioner

-vs-

1.The State, Rep. by
Commissioner of Police,
Greater Chennai, Vepery,
Chennai 600 007.

2.Dravida Munetra Kazhagam,
Political Party, Rep. by its
Secretary, Anna Arivalayam,
Anna Salai, Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus to direct the respondent / Commissioner of Police not to permit or restrain the DMK political party to hold a strike/boycott/roadblock/demonstration/dharna or human chain protest on 27th July 2017 against NEET exam across all District in the State of Tamilnadu, and (b) Declare any individual or political party hold any mode of strike/boycott/roadblock/demonstration/ dharna or human chain protest against NEET exam in state is illegal and unconstitutional as said strike or protest is against Supreme Court judgment and order and thus amounts to contempt of court.

For Petitioner : Mr.B.V.Suresh Kumar

For Respondents : Mr.C.Manishankar
Addl. Adv. General for R-1
assisted by
Mrs.Vasudha Thiagarajan,
Addl.G.P.

* * * * *

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

This writ petition, styled as a writ petition in public interest, has been filed seeking a Writ of Mandamus directing the Commissioner of Police not to permit the DMK political party to hold any strike/boycott/ roadblock/demonstration/dharna or human chain protest on 27th July, 2017 to protest against the National Eligibility and Entrance Test (NEET) for admission to medical course.

2.Learned counsel appearing on behalf of the petitioner submits that any protest against NEET exam would be violative of the order of the Supreme Court dated 28.04.2016 in W.P. (C) No.261 of 2016 (Sankalp Charitable Trust and Anr. vs. Union of India and Ors.). The order of the Supreme Court referred to by the petitioner apparently relates to the NEET examination that was scheduled to be held in 2016.

3.Learned Additional Advocate General submits, on instructions, that permission sought to hold protest, inter alia, by forming human chain has been rejected by an order dated 25.07.2017 of the first respondent. The writ petition has become infructuous by reason of the order refusing permission to the party concerned to hold the protest.

4.In any case, every citizen has the fundamental right of freedom of speech and expression under Article 19(1)(a) of the Constitution of India, which includes fair criticism of the law or any executive action. Right to assemble and demonstrate are essential features of a democratic system. A protest may not necessarily be contumacious. A legitimate exercise of the right of speech and expression, including fair criticism, should not be throttled by this Court by issuance of orders in anticipation. The interference of this Court is, therefore, not warranted at this stage.

5.At the same time, the observance of rule of law by all citizens is one of the basic requirements for the working of a democracy. Every person is subject to the rule of law, including the laws relating to contempt. Fundamental rights may be regulated by reasonable restrictions.

6.There can be no doubt that if there is any illegal activity or contumacious act, action would have to be taken in accordance with law.

Writ petition is, accordingly, dismissed with the above observations. No costs.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

sra

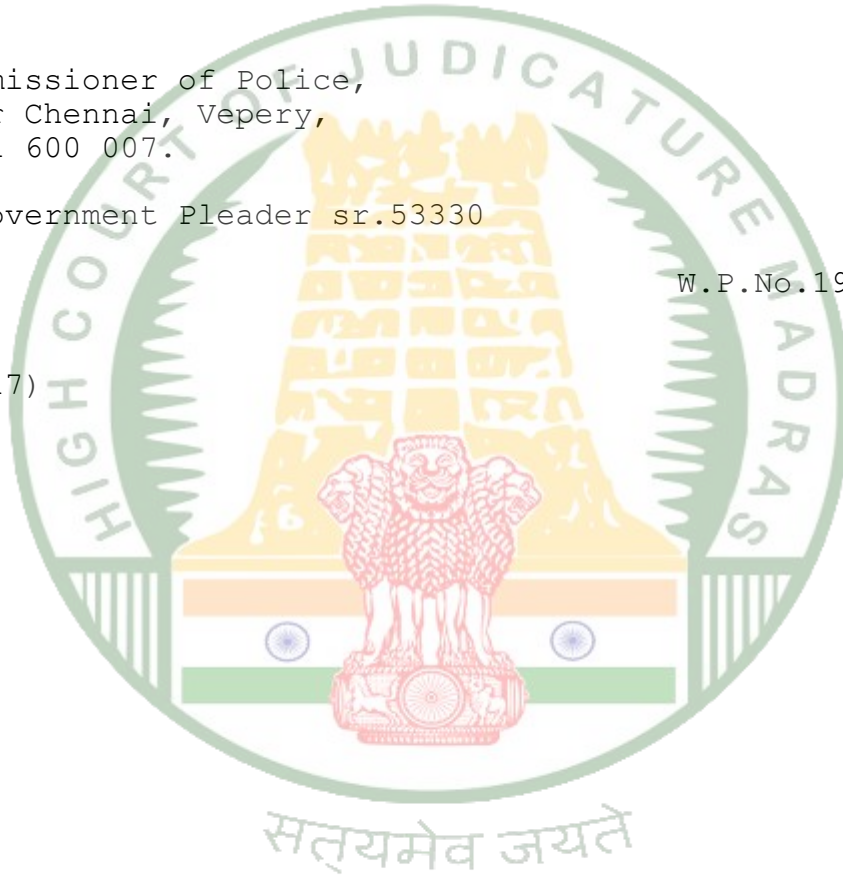
To

1.The Commissioner of Police,
Greater Chennai, Vepery,
Chennai 600 007.

+1cc to Government Pleader sr.53330

W.P.No.19161 of 2017

lrs(co)
ss(4/8/2017)



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