

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 17.11.2017

Pronounced on : 21.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.No.29479 of 2017
and
W.M.P.No.31776 of 2017

Asokan ... Petitioner

Vs

- 1.State rep. by
The Secretary to the Government,
Home Department,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai.
- 3.The Commissioner of Police,
Office of Commissioner of Police,
Salem.
- 4.The Inspector of Police,
B-1, Salem Town Police Station,
Salem.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to grant permission to the petitioner herein to conduct public meeting on 19.11.2017 at Fort Maidan at Salem.

For Petitioner : Mr.G.Muthukrishnan

For Respondents: Mr.Vijaya Narayanan,
Advocate General
Assisted by
Mr.Gautham Venkatesh, GA
Mr.C.Vigneswaran, GA
Mr.S.Babu, GA

ORDER

This Writ Petition has been filed seeking a direction to the respondents to grant permission to the petitioner to conduct public meeting on 19.11.2017 at Fort Maidan at Salem.

2.The case of the petitioner is that he is a member of Oriented Social Organisation in the name of "Makkal Pathai". In order to conduct a public meeting on 19.11.2017 at 'Kottai Mythanam', the petitioner had given a requisition to the third respondent herein seeking for permission to conduct the meeting. Since the petitioner's request was not considered in time, the present writ petition has been filed seeking for a writ of Mandamus directing the respondents to grant permission to the petitioner to conduct the public meeting on 19.11.2017.

3.Heard Mr.G.Muthukrishnan, learned counsel for the petitioner and Mr.Vijaya Narayanan, learned Advocate General appearing on behalf of the respondents.

4.The learned counsel for the petitioner submitted that 'Makkal Pathai' intended to open an IAS Academy on 19.11.2017 to provide free IAS/IPS coaching for under privileged aspirants and the agenda for the present public meeting was to explain the activities of Makkal Pathai and to motivate the IAS/IPS aspirants. According to the learned counsel for the petitioner, though he had made a request on 30.10.2017 itself for seeking permission, the respondents have not considered his request till date. He further submitted that the non consideration was motivated and unjustified.

5.When the matter was listed on 16.11.2017, Mr.S.Babu, learned Government Advocate on instructions submitted that on the date and the place for which the petitioner is seeking for permission to conduct the public meeting, the police have already granted permission for another public meeting and therefore, the petitioner's request cannot be considered. At this juncture, I had directed the learned Government Advocate to get further instructions either for an alternative place for the petitioner's proposed meeting or an alternative date on which the petitioner's request would be considered and posted the matter on 17.11.2017. The learned counsel for the petitioner also requested that their meeting can be rescheduled to 25.11.2017 and hence the Government Advocate was directed to get instructions on this alternate date also.

6.On 17.11.2017, when this writ petition was listed, the learned Advocate General submitted that the writ petition does not deserve any consideration since there was material

suppression of facts to mislead this Court. The learned Advocate General produced three pamphlets issued by the petitioner's organisation pertaining to the agenda of the proposed public meeting to be conducted on 19.11.2017. The pamphlets was a call to the general public to protest against the issues pertaining to suicides committed by the agriculturists, poverty-struck weavers, the people whose fundamental rights have been affected, right to education being denied to children, denial of quality medical aid, unemployment and corruption. The pamphlets also indicated that the meeting was to be addressed by Mr.U.Sagayam, I.A.S., the key speaker, who would highlight these issues. It is also seen that the pamphlets was not only a mere invitation to the public, but a clear message calling upon them to protest.

7.The learned Advocate General submitted that apart from the suppression of these vital facts in the affidavit filed in support of the writ petition, since the agenda of the meeting was a call to the general public to protest, there was an imminent possibility for law and order situation and hence, such a meeting does not deserve permission.

8.As pointed out by the learned Advocate General, in para 6 of the affidavit of the petitioner, the petitioner has stated that the organisation had decided to open an IAS Academy on 19.11.2017 to provide free IAS/IPS coaching for under privileged aspirants and on the same day, they intended to conduct a public meeting to explain the activities of the organisation and to motivate the IAS/IPS aspirants and the members of the public to become a responsible and honest citizens. The proposed speaker for the said meeting was Mr.U.Sagayam, I.A.S. There is no averment in the affidavit to indicate any other agenda of calling the general public to protest against various socio-economic issues.

9.As a matter of fact, when this writ petition was taken up for hearing on 16.11.2017, this Court had directed the learned Government Advocate to get instructions for an alternative date and the place of meeting since the cause indicated in the affidavit was not only acceptable but also appreciable, since the averments in the affidavit suggested that the meeting could only be a peaceful gathering for noble cause.

10.On the next day, (i.e.,) on 17.11.2017, when the learned Advocate General had produced these pamphlets, this Court was really disappointed to realise the agenda for the meeting which is, in effect, a protest call against the policy issues of the Governments. Probably since the meeting was to be addressed by a top ranking Government Official on these policies, this agenda has been suppressed in the petitioner's affidavit. The

averments in the pamphlets clearly establishes that it was a call to the public to protest and revolt against the issues pertaining to agriculturists, poverty struck weavers, the people whose fundamental rights have been affected, right to education being denied to children, denial of quality medical aid, unemployment and corruption. As rightly pointed out by the learned Advocate General, the possibility of such a gathering may create a law and order crisis. In these circumstances, it would not be appropriate for this Court to direct the respondents to grant permission for such a meeting.

11.The learned Advocate General also relied upon the judgments of the Hon'ble Supreme Court in Welcom Hotel and others V. State of Andhra Pradesh and others reported in 1983 (4) SCC 575, wherein, the petitioner before the Apex Court had obtained stay order by suppressing the material facts and in that connection, it was observed in the said order that the suppression of material facts would dis-entitle the petitioner to any relief at the hands of the Court. It was further observed therein that in view of the suppression of the material facts leading to grant of an interim order, "the Court which was set up for justice including socio-economic justice, unfortunately lent its assistance to such unjust enrichment and yet we are helpless".

12.In another judgment of the Hon'ble Supreme Court in Dr.Vijay Kumar Kathuria Vs. State of Haryana and others reported in 1983 (3) SCC 333, the Hon'ble Supreme Court had expressed its strong disapproval on a false representation and reckless allegations made before it and by reason of such conduct, it was observed that the petitioner's therein were dis-entitled to get any relief from the Court.

13.This Court had, in various cases, has been granting favourable orders for all peaceful gatherings and meetings on the ground that the right to conduct a public meeting is a fundamental right, so long as the agenda of the meeting does not create any law and order situation. The averments in the affidavit, in my view has been intentionally made to make-believe this Court and obtain favourable orders. It is a great disappointment that such affidavits are being filed before this Court with a clear intention to mislead the Court, since the petitioner was very much aware of the proposed agenda of the meeting and totally contrary averments has been made in the affidavit regarding the purpose of the meeting. As a matter of fact, the pamphlets do not speak a single word about the petitioner's intention to open IAS Academy for the under privileged aspirants, as indicated in his affidavit, filed in support of the Writ Petition.

14.In the result, the petition does not deserves any consideration, not only in view of his conduct, but also since

such a meeting intended to be addressed by a Government Official calling upon the general public to protest and revolt, for the aforesaid causes may lead to law and order situation. Accordingly the Writ Petition is dismissed and the petitioner is directed to pay a cost of Rs.10,000/- to the Tamil Nadu State Legal Services Authority, High Court, Madras, within a period of one week from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

DP

To

- 1.The Secretary to the Government,
Home Department,
Fort St. George,
Chennai-600 009.
- 2.The Director General of Police,
Office of the Director General of Police,
Chennai.
- 3.The Commissioner of Police,
Office of Commissioner of Police,
Salem.
- 4.The Inspector of Police,
B-1, Salem Town Police Station,
Salem.
- 5.The Secretary
Tamil Nadu State Legal Authority,
High Court, Madras.

+ 1 cc to Mr.G.Muthukrishnan Advocate, SR.82581
+ 1 cc to The Govt.Pleader, SR.83305

W.P.No.29479 of 2017
and
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RV(CO)
NR 21/11/2017