



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

WEB COPY

W.P. (MD) No.12718 of 2017

Kaliappan @ Ramadoss

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Tanjavore District.

2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Tanjavore District.

3. The Inspector of Police,
East Town Police Station,
Tanjavore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, by calling for the records relating to the impugned order in C.No.22/Meeting.B1 PS/2017, dated 02.07.2017 on the file of the 3rd respondent and quash the same as illegal and consequently direct the second respondent to grant permission for conducting Public Meeting on 15.07.2017 at Abraham Pandithar Salai at Tanjavore Town from evening 06.00 p.m. to 10.00 p.m.

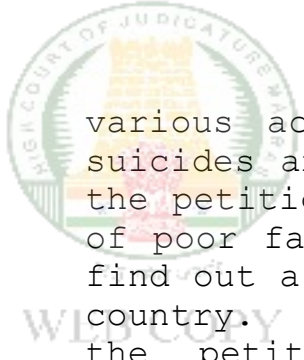
For Petitioner : Mr.S.Vanchinathan

For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the proceedings of the third respondent dated 02.07.2017 and consequently, direct the second respondent to grant permission for conducting a public meeting on 15.07.2017 at Abraham Pandithar Salai, Thanjavur Town.

2.The petitioner states that he is the State Treasurer in an organisation called "Makkal Athikaram" and a resident of Thanjavur. It is the case of the petitioner that he and his organisation are involved in various social activities without any discrimination on the basis of caste or religion. The aim of the organisation is to educate and empower the people through its



various activities including ban on TASMAL, preventing farmers' suicides and other issues. It is the case of the petitioner that the petitioner organisation is presently campaigning for the cause of poor farmers and conducting discussion throughout the State to find out a concrete solution to avoid farmers' suicides across the country. In the affidavit filed in support of the Writ Petition, the petitioner has referred to several activities of the organisation in which he is associated with so as to establish his *locus standi* to approach this Court with the above Writ Petition. When the petitioner wanted to conduct a State wide conference on 05th of August, 2017, they also thought that it is necessary to explain the necessity for the said conference and hence, they submitted a petition to the third respondent to forward the petition to grant permission for a public meeting on 03.07.2017. However, permission was denied by the impugned order by referring to Section 30(2) of the Police Act, 1861, on the ground that there is likelihood of law and order problem.

3.A reading of the impugned order, this Court is able to see that the third respondent has passed an order mechanically on the sole ground that there is likelihood of law and order problem. As pointed out by the learned counsel for the petitioner, the rejection is not supported by any valid reasons. The reasons are subjective rather than objective. The learned counsel for the petitioner also relied upon a judgment of the Hon'ble Division Bench of this Court in the case of **C.J.Rajan v. Deputy Superintendent of Police, Mayiladuthurai and another** reported in (2008) 3 MLJ 926 wherein it has been held as follows:

"12. Therefore, it is too late for the respondents to refuse permission to hold a meeting on a matter of public importance. With respect to the respondents' reliance upon Section 30(2) of the Police Act, 1861, it can only be said that it enables the respondents to direct the control and conduct of all assemblies and processions on public road or in the public streets or thoroughfares and to prescribe the Rules by which and the times by which the processions may pass and Section 30(2) and (3) on which reliance was placed, is extracted below:

Sec 30(2):" He may also, on being satisfied that it is intended by any persons or class of persons to convene or collect an assembly in any such road, street or thoroughfare, or to form a procession which would, in the judgment of the Magistrate of the district, or of the subdivision of a district, if uncontrolled, be likely to cause a breach of the peace, require by general or special notice, that the persons convening or collecting such assembly or



directing or promoting such procession shall apply for a licence.

(3) On such application being made, he may issue a licence, specifying the names of the licensees and defining the conditions on which alone such assembly or such procession is to be permitted to take place, and otherwise giving effect to this section."

13. Therefore, the said provision is only a regulatory power and not a blanket power to strifle any democratic dissent of the citizens by the Police.

14. While dealing with a similar situation on the powers conferred on the Commissioner of Police under Section 41 of the Madras City Police Act, 1888, this Court (R. Jayasimha Babu, J.) vide judgment in *P. Nedumaran v. State of Tamil Nadu and others* [1999 (1) L.W. (CRI) 73] defined the scope of the rights of citizen and the power of the State to impose reasonable restriction. The following passages found in paragraphs 15 to 18 may be usefully extracted:

Para 15: "The rights conferred on the citizens by Article 19 of the Constitution are precious rights and are not to be lightly breached or restricted by the State or any functionary of the State. Any regulation of exercise of those rights must be for the purposes specified in Article 19 of the Constitution itself, and that power must be so exercised as to subserve the larger public good. The power to impose restrictions is not the power which is available for exercise in an arbitrary manner or for the purpose of promoting the interest of those in power, or for suppressing dissent Democracy can be made dynamic and truly alive only when there is free market for ideas and discussion and debate is not only permitted but is encouraged. All expression of opposing view point cannot be regarded as dangerous to the safety or security of the country and all expressions which do not find the approval of those exercising the power of the State cannot be regarded as harmful to the State and to the public order.

Para 16: The power conferred on the Commissioner under Section 41 of the Madras City Police Act is sweeping, that power is meant to be exercised with great care and caution. The Madras City Police Act is a pre-Constitution enactment, and the powers conferred on the authorities at a time when the country was under the colonial regime, and during the period when suppression of dissent was considered to be a legitimate



policy of the State, cannot be exercised after the enactment of the Constitution in the same manner, as it was exercised earlier. The Intelligence Report placed before the Court shows that the police still have the attitude which does not seem to recognise that the country is a democratic nation, where every citizen has a right to full and equal participation in the process of Government. No citizen can be regarded as an enemy of the State merely because he has voiced a view which is not the one favoured by those in authority.

Para 17: The fact that the police are vested with power should not make them assume that, that power is available for exercise in any manner that they consider fit. That power is to be exercised strictly within the ambit of the provisions of the Constitution, more particularly, the requirement that any restriction placed on the exercise of fundamental rights should be a reasonable restriction, and the restrictions so placed should be shown to be essential, having regard to the permissible purpose for which restrictions may be imposed.

Para 18: The fact that the petitioner-Association is voicing a view point which may not be popular cannot be a justification for preventing that point of view being projected."

We are in entire agreement with the views expressed therein.

15. The proposal made on behalf of the petitioner is laudable and it shows their accommodating spirit in relocating the venue of the public meeting to another place after taking note of the objections raised by the respondents. We are of the view that the respondents can have no objection for the present venue, date and time chosen by the petitioner Association for conducting a public meeting. Since the respondents are present in Court and they were also informed about the change of the venue made by the petitioner, it is hereby directed the petitioner need not send any fresh application and the request recorded in this order can be taken as adequate requisition made by the petitioner.

16. In view of the above, the second respondent is hereby directed to permit the petitioner to hold the meeting at (near bus stand) at Nagapattinam Town on 23.3.2008 from 4 PM to 10 PM. It is for the respondents



to provide adequate protection for the smooth conduct of the meeting. The writ petition is disposed of accordingly. However, there will be no order as to costs. Connected Miscellaneous Petition is closed."

4. Having regard to the view taken by the Hon'ble Division Bench of this Court in the above case, this Court is not able to justify the order of the third respondent refusing to grant permission. It has been held that Section 30(2) of the Police Act, 1861, does not provide a blanket power to strifle any democratic dissent of the citizens by the Police. In the said circumstances, this Writ Petition is allowed and the impugned order dated 02.07.2017 is set aside. The second respondent is directed to consider the petitioner's representation dated 05.07.2017 and grant appropriate permission and provide police protection to the petitioner to conduct a public meeting on 15.07.2017 at Abraham Pandithar Salai, Thanjavur Town between 06.00 p.m. to 10.00 p.m. subject to any reasonable restrictions / conditions that is required to preserve public order and communal harmony. The order shall be passed by the second respondent before 06.00 p.m. on 14.07.2017. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

1. The Superintendent of Police,
O/o. The Superintendent of Police,
Tanjavore District.
2. The Deputy Superintendent of Police,
O/o. The Deputy Superintendent of Police,
Tanjavore District.
3. The Inspector of Police,
East Town Police Station,
Tanjavore.

+1cc to Mr.S.Vanchinathan, Advocate SR.No.65214

SRM/IS

VB/SV/SAR2/14.07.2017/5P/5C