



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.07.2017
CORAM:

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

WEB COPY

W.P. (MD) No.12791 of 2017

Rajendran

... Petitioner

Vs.

1.The Superintendent of Police,
Pudukkottai.

2.The Deputy Superintendent of Police,
Pudukkottai.

3.The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai.

... Respondents

(Cause title amended vide Court Order dated 11.07.2017 in W.M.P.
(MD) No.9984 of 2017)

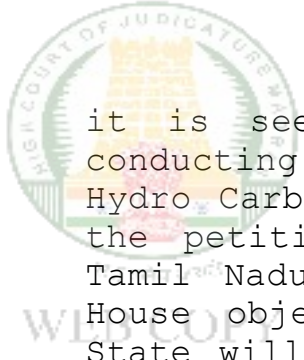
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to grant permission to the petitioner to arrange for the protest meeting against the establishment of Neduvasal Hydro-Carbon extraction project, at Chinnappa Park, Pudukkottai Town on 15.07.2017 at about 02.00 p.m.

For Petitioner	: Mr.Ganapathi Subramanian
For Respondents	: Mr.B.Pugalendhi
	Additional Advocate General
	assisted by Mr.A.K.Baskara Pandian,
	Special Government Pleader

O R D E R

The Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents to grant permission to the petitioner to arrange for the protest meeting against the establishment of Neduvasal Hydro-Carbon extraction project at Chinnappa Park, Pudukkottai Town on 15.07.2017 at about 02.00 p.m.

2.The petitioner states that he has organised a protest meeting at Chinnappa Park, Pudukkottai Town on 15.07.2017 at 02.00 p.m. The agitation is to condemn the policy of Central Government to implement the Hydro Carbon Project. Leave alone the details contained in the affidavit filed in support of this Writ Petition,

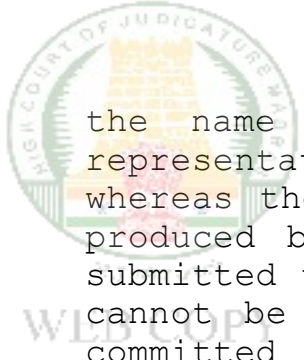


it is seen that the petitioner and like minded persons are conducting protest meetings in various places objecting to the Hydro Carbon Project at Neduvasal from February, 2017. In fact, the petitioner also admits that the Hon'ble Chief Minister of Tamil Nadu State has made an announcement in the floor of the House objecting to the proposed project and promised that the State will never allow the Hydro Carbon Project which is against the interest of the agriculturists and farmers. The petitioner himself relied upon the assurance given by the District Collector vide his proceedings dated 15.05.2017. Despite all these, the Central Government has not stopped the project and in paragraph 4 of the affidavit filed in support of this Writ Petition, the steps that are taken by the Central Government in proceeding towards calling for tender and awarding of contract to several companies including foreign company, are referred to and it is stated that the agitation throughout the State in the recent past has not yielded any result. The petitioner has made a representation on 04.07.2017 seeking permission and the same was not considered. Hence, the above Writ Petition is filed.

3.The learned counsel for the petitioner stated that the agitation and the protest meeting proposed to be held on 15.07.2017 is only to criticise the policy of the Central Government and that therefore, it is the fundamental right of a citizen of this country under Article 19(1) of the Constitution of India.

4.The learned Additional Advocate General appeared for the respondents in this case submitted that he has instructions to seriously oppose the agitation and the protest meeting for various reasons. The learned Additional Advocate General referred to the announcement of the Hon'ble Chief Minister of the State of Tamil Nadu in the floor of the House about his solemn undertaking not to permit the Hydro Carbon Project. Further, the press statement of the Hon'ble Chief Minister of Tamil Nadu relied upon by the petitioner is also referred to by the learned Additional Advocate General to point out that the petitioner has no cause of action for initiating or proceeding with any agitation. It is the specific contention of the learned Additional Advocate General that the agitation is only to prevent the project proposed by the Central Government. When the Hon'ble Chief Minister of the State has given a solemn undertaking and this has been widely published in all news papers and other media throughout the State, the real purpose behind organising such protest meeting is with ulterior motive and that therefore, the respondents cannot permit such meeting in the interest of maintenance of public order and tranquillity.

5.The learned Additional Advocate General then pointed out the fact that the petitioner is not the signatory to the representation that was given on 04.07.2017. Pointing out that



the name of Rajendran, the petitioner, was inserted in the representation found in the typed set filed before this Court whereas the original representation that was given is not the one produced before Court. The learned Additional Advocate General submitted that the authenticity of the petitioner's representation cannot be accepted. As a matter of caution, a person who has committed an irregularity of this nature cannot be shown any indulgence by this Court while exercising the power under Article 226 of the Constitution of India.

6.Thirdly, the learned Advocate General referred to the counter affidavit wherein the respondents have pointed out certain practical difficulties in granting permission to conduct demonstration / protest meeting. In paragraph 7 of the counter affidavit, the respondents have tabulated the reasons justifying their objections to give permission to the petitioner to conduct the protest meeting on 15.07.2017. The objection relates to the following aspects:

(a) The place Chinnappa Park chosen by the petitioner is a small area which will not accommodate more than 750 persons. Since it is a highly traffic sensitive area, there is every possibility of nuisance or untoward incident like stampede and other hindrance to the public peace.

(b) There are few schools near the venue chosen by the petitioner and permitting the petitioner to use loud speaker will affect the students' education.

(c) There are more than four hospitals located in the nearby vicinity and any permission for huge demonstration will cause hardship to the patients and public.

7.Pointing out these practical difficulties in managing huge crowd at Chinnappa Park, it was the contention of the learned Additional Advocate General that the respondents will not be in a position to control if something happens. He pointed out that the petitioner / organisers have specifically admitted in their reply that they only believe in God that they will conduct the meeting without any law and order problem. Since the organisers themselves are not in a position to ensure the conduct of protest meeting in a peaceful manner, it is submitted by learned Additional Advocate General that it is very difficult for the respondents to control the crowd or to maintain law and order. The learned Additional Advocate General referred to the recent incident at Marina where the police could ultimately found themselves in a helpless situation to control the huge crowd. Finally, the learned Additional Advocate General on the specific reference to the place chosen by the petitioner submitted that the petitioner can very well conduct such protest meeting at Neduvasal. It was further submitted that this Court is not

justified in permitting such meeting and it is always better to leave it to the decision of executive.

8. The right guaranteed under Article 19(1)(a) and Article 19(1)(b) is of course subject to the operation of any existing law insofar as such law imposes reasonable restrictions on the exercise of the right conferred by Article 19(1)(a) and Article 19(1)(b) in the interest of sovereignty and integrity of India, security of State, public order, etc. A restriction upon the freedom of expression cannot be justified on a ground under any clause other than prescribed under Article 19(2) or 19(3). The agitation or protest meeting is neither communal nor intend to affect any religious sentiments of any section of people in the State. Hence, the protest meeting cannot be prevented on the basis of the promise or the statement of the Hon'ble Chief Minister of the State either in the floor of the House or in the press statement. It is the apprehension of majority of the people like the petitioner that the project is still on and therefore, they want to show their protest. It has been repeatedly held by the Hon'ble Supreme Court that criticising the policy of the Central Government cannot be prohibited as such a right is fundamental and guaranteed under Article 19(1) of the Constitution of India. This Court has repeatedly held that such freedom of expression can be restricted only by law. Though Section 30 of the Tamil Nadu Police Act gives the power to the respondents to regulate such protest meeting, no prohibition can be imposed as it has been held by this Court in number of judgments. The contention of the learned Additional Advocate General that the petitioner has no cause of action as the State has already supported the cause of farmers in Neduvasal, may not be an answer to prevent the petitioner or any one interested to show their protest by demonstration in exercise of their fundamental right of expression.

9. With regard to the second submission of the learned Additional Advocate General, the learned counsel for the petitioner relied upon the query that was raised by the Deputy Superintendent of Police to one of the organisers of the protest. When the question was raised as to the leadership and the details of the office bearers of the organisation who organise the protest meeting, a former member of the Legislative Assembly who is also one of the office bearers and signatory to the representation that was submitted to the second respondent, made the position clear in his reply stating that the petitioner is the President of the organisation which has announced the protest meeting on 15.07.2017. No doubt, the learned Additional Advocate General's accusation as regards the non-filing of the representation that was given to the second respondent earlier is not fully met by the learned counsel for the petitioner. However, within the short span of time, this Court is not in a position to and does not want to rest its conclusion on this technical objection. Taking into



account the fact that the petitioner is the President of the organisation, this issue is not appealing to this Court to deny relief to the petitioner.

10. The third submission is relating to the difficulties of the respondents in maintaining the law and order. The representation of the petitioner was dated 04.07.2017. The respondents very well knew about the problems. All the difficulties expressed by the respondents could have been clarified by calling for more particulars from the petitioner or the organisers of the protest meeting. Except the apprehension that there will be more crowd and that there is likelihood of law and order problem, no other difficulty was expressed before this Court. Since the protest meeting is called for for a specific purpose, it can be assumed that the meeting is meant for like minded people. Hence, the strength of crowd may not be a serious problem for controlling law and order. Hence, this Court is not in a position to decline the relief to the petitioner.

11. This Court is of the view that the respondents can put any reasonable restriction or condition so as to preserve law and order and to prevent any untoward incident. When the petitioner is doing for the cause of farmers and other persons likely to be affected by the project, in a democratic country like India, we cannot afford to restrict such demonstration conducted in a democratic way. Our country has taught a lesson to the rest of the world by history by getting freedom by several movements and agitations. Hence, this Court is of the firm view that the respondents are capable of managing the situation by putting any reasonable restrictions or conditions to the petitioner and the organisers so as to ensure the protest meeting conducted in a peaceful manner without giving room for any untoward incident or law and order situation. In view of the serious objections to the place of protest meeting, the petitioner also suggested an alternative place, namely, Thadikonda Iyyanar Thidal. The learned counsel for the petitioner submitted that this place can accommodate several thousands of people and therefore, it is also open to the respondents to choose either Chinnappa Park or the alternative place for permitting the protest meeting suggested by the petitioner so that the respondents can effectively manage the crowd without hindrance to the normal public life in the place concerned.

12. With regard to the place, the second respondent is directed to inform the petitioner or one of the office bearers of the organisation namely, Mr. I. Pushparaj, regarding the selection of venue for the meeting. Mr. I. Pushparaj has undertaken to file an affidavit about the alternative place which according to the petitioner is sufficient and convenient to them for conducting the meeting on 15.07.2017. The second respondent is directed to pass an order granting permission to the petitioner subject to any



reasonable restriction that is required for the purpose of maintaining law and order before 10.00 p.m. on 15.07.2017.

13. With the above observations and directions, this Writ Petition is allowed. No costs.

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14. The petitioner is directed to pay Rs.5,000/- (Rupees One Thousand only) to the credit of the Hon'ble Chief Justice Relief Fund, Madurai Bench of Madras High Court, Madurai, by today, failing which, the order copy shall not be furnished to the petitioner today.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Pudukkottai.
2. The Deputy Superintendent of Police,
Pudukkottai.
3. The Inspector of Police,
Ganesh Nagar Police Station,
Pudukkottai.

Copy to:

The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to M/S.P.Ganapathi Subramanian, Advocate SR.No. 65575
+1cc to Special Government Pleader, SR.No. 65580

W.P. (MD) No. 12791 of 2017
14.07.2017

SRM/IA
JM/SKN RSK/SAR 1/14.07.2017/2P/7C