



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE P.KALAIYARASAN

W.P(MD)No.1326 of 2017

P.Arockiasamy

... Petitioner

vs.

1)The Deputy Superintendent of Police,
Deputy Superintendent of Police office,
Ambasamudram,
Tirunelveli District.

2)The Sub Inspector of Police,
Alwarkurichi Police Station,
Alwarkurichi,
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent proceeding in Na.Ka.No.05/Se.Mu.Kaa.Thu.Ka.Ku/2017 dated 23.01.2017 and quash the same and consequently direct the respondents to grant permission to perform cultural programme of 'Orchestral Music' to be conducted on 29.01.2017 and 31.01.2017 in connection with the 'St.Antony Feast Festival' of St.Antony Church' at Karuthapillaiyur, Ambasamudram Taluk, Tirunelveli District.

For Petitioner : Mr.J.John

For Respondents : Mr.K.P.Krishnadass, Government Advocate

ORDER

This Writ Petition has been filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the 1st respondent in Na.Ka.No.05/Se.Mu.Kaa.Thu.Ka.Ku/2017, dated 23.01.2017, and quash the same and consequently direct the respondents to grant permission to perform cultural programme of 'Orchestral Music' to be conducted on 29.01.2017 and 31.01.2017 in connection with 'St.Antony Feast Festival' of St.Antony Church' at Karuthapillaiyur, Ambasamudram Taluk, Tirunelveli



2.The petitioner made a representation to the 1st respondent on 18.01.2017, seeking permission to perform cultural programme of 'Orchestral Music' to be conducted on 29.01.2017 and 31.01.2017 in connection with 'St.Antony Feast Festival' of St.Antony Church' at Karuthapillaiyur, Ambasamudram Taluk, Tirunelveli District. The said representation was rejected by the 1st respondent, by impugned order dated 23.01.2017.

3.According to the petitioner, the reasons assigned for rejection in the order of the 1st respondent dated 23.01.2017, are untenable and therefore, he has come forward with this writ petition to quash the said order.

4.The learned counsel for the petitioner has made arguments reiterating the averments made in the writ petition.

5.The learned Government Advocate appearing for the respondents contends that the representation of the petitioner dated 18.01.2017 was rejected, mainly on the ground that there is a possibility of law and order problem, if permission is granted.

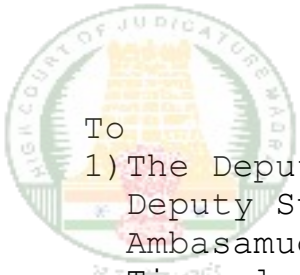
6.The impugned order dated 23.01.2017 passed by the 1st respondent does not disclose how the 1st respondent has come to the conclusion that law and order problem would arise, if permission is granted to the abovesaid cultural programme. The impugned order also does not reflect any previous case against any person while conducting Orchestral Music in the previous years.

7.The other ground mentioned in the order impugned is that Section 32 of the Police Act, 1861 is in force in the area where the cultural programme is sought to be performed. However, Section 30(2) of the Police Act, 1861, is nothing but a regulatory procedure whereby, persons have to obtain permission for any procession or for assembling in a place. Section 30(4) relates to permission to conduct Music Programme. The reasons given in the order are not sustainable.

8.Therefore, for the abovesaid reasons, this Writ Petition is partly allowed and the impugned order in Na.Ka.No.05/Se.Mu.Kaa.Thu.Ka.Ku/2017, dated 23.01.2017, passed by the 1st respondent, is set aside and the 1st respondent is directed to re-consider the representation of the petitioner dated 18.01.2017, and pass appropriate orders in accordance with law. No costs.

Sd/
Assistant Registrar(CS-II)

/True Copy/



To

- 1) The Deputy Superintendent of Police,
Deputy Superintendent of Police office,
Ambasamudram,
Tirunelveli District.

WEB COPY

- 2) The Sub Inspector of Police,
Alwarkurichi Police Station,
Alwarkurichi,
Tirunelveli District.

+1CC to M/S.J.John, Advocate, SR.No. 4654

W.P(MD) No.1326 of 2017
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