



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2017

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.14723 of 2017

T.Chinnaiyan

... Petitioner

-Vs-

1. The Deputy Superintendent of Police,
Periyakulam Sub Division,
Periyakulam, Theni District.

2. The Inspector of Police
Periyakulam Police Station,
Periyakulam, Theni District.

... Respondents

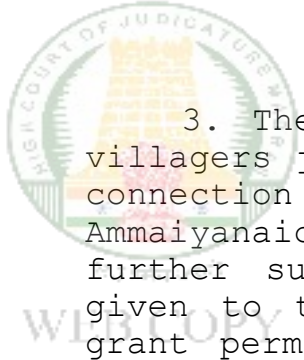
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.30/Pthu/U.Ko.A-Periyakulam/17 dated 03.08.2017 and quash the same, consequently directing the respondents to grant permission and necessary protection to perform the cultural programme (i.e.) Adal Padal on the eve of Arulmigu Sri Vana Kaliyamman Temple at Ammaiyanackanur Road, Vadakarai, Periyakulam, Theni District, which is to be held on 10.08.2017.

For Petitioner : Mr.N.Muniraj

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

This Writ petition is filed for issuing a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.30/Pthu/U.Ko.A-Periyakulam/17 dated 03.08.2017 and quash the same, consequently directing the respondents to grant permission and necessary protection to perform the cultural programme (i.e.) Adal Padal on the eve of Arulmigu Sri Vana Kaliyamman Temple at Ammaiyanackanur Road, Vadakarai, Periyakulam, Theni District, which is to be held on 10.08.2017.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.



3. The learned counsel for the petitioner submitted that the villagers jointly decided to conduct "Adal Padal" on 10.08.2017 in connection with the Arulmigu Sri Vana Kaliyamman Temple at Ammaiyaanaickanur Road, Vadakarai, Periyakulam, Theni District. He further submitted that in this connection, a representation was given to the second respondent on 01.08.2017, with a request to grant permission and protection to conduct the programmes on the above said date. However, the second respondent rejected the said representation, by the impugned proceeding, dated 03.08.2017, and hence, the petitioner is before this Court with this Writ Petition.

4. Permission was refused vide the impugned order, dated 03.08.2017, in which it has been mentioned that taking into account the law and order and the fact that Section 30(2) of the Police Act is in force permission is refused. In all cases, the respondents are expected to consider law and order and there cannot be reference to the same to deny permission without reference to some materials. The power under Section 30(2) of the Police Act is to regulate not to prohibit. Hence this Court is of the view that permission refused vide the impugned order is liable to be quashed. However taking into account the serious objections, it is open to the respondents to put any further restrictions, which is required for the purpose of maintaining law and order.

5. Considering the facts and circumstances of the case, the impugned order, dated 03.08.2017 passed by the second respondent is set aside and the Writ petition is allowed with the following directions:-

The second respondent/The Inspector of Police, Periyakulam Police Station, Periyakulam, Theni District. is directed to consider the representation of the petitioner, dated 03.08.2017 and to give permission and to provide police protection for "Adal Padal" in connection with a festival in Arulmigu Sri Vana Kaliyamman Temple at Ammaiyaanaickanur Road, Vadakarai, Periyakulam, Theni District, scheduled to be held on 10.08.2017, subject to the following conditions;

(a) the "Adal Padal" in connection with a festival in Arulmigu Sri Vana Kaliyamman Temple at Ammaiyaanaickanur Road, Vadakarai, Periyakulam, Theni District scheduled to be held on 10.08.2017, should be completed before 10.30 p.m.

(b) double meaning songs should not be played so as to spoil the minds of students and the youth;

(c) no songs, touching upon any political party or religion, community or caste be played;

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(d) no flex boards in support of any political party or religious leader be erected;



(e) the function should not affect either religious or communal harmony and shall be conducted without any discrimination based on caste;

(f) if there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;

(g) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;

(h) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme; and

(i) if any untoward incident takes place, the organizers of the programme be made responsible for the same.

6. It is open to second respondent police to put any further restrictions or to impose any conditions purely in the interest of preserving public order and tranquillity. There can be a total ban for putting up any Flex Boards representing any community. No costs.

Sd/-

Assistant Registrar (Protocol)

/True Copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,
Periyakulam Sub Division,
Periyakulam, Theni District.

2. The Inspector of Police
Periyakulam Police Station,
Periyakulam, Theni District.

+ 1 CC TO Mr.R.VINOTH KUMAR, ADVOCATE IN SR No. 71199

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71830

MYR/SMI

TE/SV-AA/SAR-III : 10/08/2017 : 3P/5C

W.P.(MD) No. 14723 of 2017
08.08.2017