



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.14727 of 2017
and
W.M.P.(MD)No.11569 of 2017

P.Michael Raj (a) Tamilkanal

... Petitioner

Vs.

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Uthamapalayam Taluk,
Theni District.

2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Uthamapalayam Taluk,
Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified Mandamus, to call for the records of the impugned proceedings issued by the 2nd respondent vide Na.Ka.No.49/கா.து.க/உத்தமபாளையம் உட்கோட்டம்/2017, dated 19.07.2017 and to quash the same as illegal and consequently, direct the respondents to grant permission to the petitioner's organisation to conduct the peaceful meet on 12.08.2017, 4.00p.m., at Uthamapalayam By-pass, Uthamapalayam Taluk, Theni District.

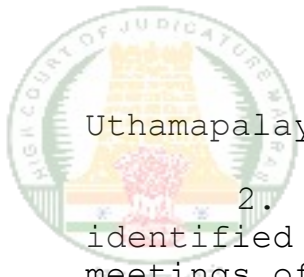
For Petitioner : Mr.A.Rajini

For Respondents : Mr.N.S.Karthikeyan

Additional Government Pleader

O R D E R

This petitioner praying that he is the Theni District Secretary of Tamil Nadu Oppressed Peoples Liberation Movement. It is further represented that the Organisation in which the petitioner is the Secretary, is working towards promoting the constitutional values of freedom of expression, right to life and liberty and other fundamental rights guaranteed under the Indian Constitution. The petitioner states that in order to oppose the trend in preventing the constitutional rights of petitioner's Organisation and others, who have like minded and to uphold the constitutionally guaranteed fundamental rights, the Organisation in which the petitioner is part, want to organise the protest meeting on 12.08.2017 near



Uthamapalayam By-pass, Uthamapalayam Taluk, Theni District.

2. The petitioner further submitted that the place identified by the petitioner is the usual place where all the meetings of political parties as well as other organizations conduct their protest meeting and other regular meetings. However, when a representation was given by the petitioner for the conduct of the protest meeting, the respondents have denied such permission by the impugned order, dated 19.07.2017. In the above circumstances, the petitioner states that he was constrained to file the present writ petition to quash the proceedings of the second respondent, dated 19.07.2017 and consequently, direct the respondents to grant permission to the petitioner Organisation to conduct the protest meeting on 12.08.2017 between 4.00 p.m. and 6.00p.m.

3. The learned Additional Government Pleader on instructions submitted that the place identified by the petitioner is not suitable for the protest meeting as the proposed meeting will cause hindrance to the public, traffic and there is likelihood of some inconvenience and nuisance to the public apart from communal clash. The learned Additional Government Pleader also referred to the impugned order and reiterated the reasons stated in the order to oppose this writ petition. The impugned order passed by the second respondent shows that permission was denied to the petitioner for the following reasons:

(a) Since the place identified by the petitioner is on Kambam to Theni National Highways, there is likelihood of traffic congestion.

(b) Repairing of leader's statue of different community is going on,

(c) adjoining the place earmarked by the petitioner, people belonging to different communities and different religions are residing.

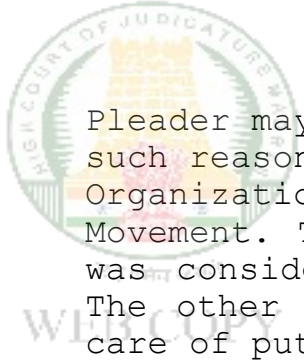
(d) Permitting the protest meeting by an Organisation of a particular community will bring some abnormalities.

(e) The speakers of the Organisation will certainly comment upon the leaders of other communities, individuals and Hindus. The area viz., Uthamapalayam Taluk is the communal sensitive area and hence, there is likelihood of some serious objections from other communities to such protest meeting and that there is likelihood of law and order problem.

(f) Section 30 (2) of the Police Act is in force.

4. It can be seen that the reasons found in the impugned order are only subjective and not based on any objective consideration based on any materials collected or information gathered.

5. The learned Additional Government Pleader submitted that the petitioner himself is a history sheeted rowdy and that therefore, permission cannot be granted to a person of his character. The submission of the learned Additional Government



Pleader may not have substance as the order impugned do not disclose such reason. Secondly, the petitioner is only an Office bearer of an Organization by name Tamil Nadu Oppressed Peoples Liberation Movement. The credentials of the Organisation is not a reason that was considered by the second respondent while denying permission. The other grounds referred to in the impugned order can be taken care of putting stringent conditions.

6. In such circumstances, having regard to the constitutional guarantee given to a citizen under Article 19(1), this Court is of the view that the permission cannot be denied on any other ground except public order. The right to freedom of expression cannot be curtailed and can only be regulated as it has been repeatedly held by the Honourable Supreme Court in several judgments. In that view of the matter, the impugned order passed by the second respondent, by proceedings dated 19.07.2017 is quashed and consequently, the respondents are directed to grant permission to the petitioner's Organisation to conduct the protest meeting on 12.08.2017 between 4.00 p.m. and 6.00 p.m., in the place as may be found convenient for both the petitioner and the respondents. Having regard to the responsibility of the respondents in maintaining public order and tranquilly, the official respondents are directed to permit the petitioner to conduct meeting in a suitable place subject to any reasonable restriction or condition which is required in law to maintain law and order.

7. The Writ Petition is disposed of accordingly. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
O/o.The Superintendent of Police,
Uthamapalayam Taluk,
Theni District.

2.The Deputy Superintendent of Police,
O/o.The Deputy Superintendent of Police,
Uthamapalayam Taluk,
Theni District.

<https://hcservices.ecourts.gov.in/hcservices/>

+1cc to M/S.A.Rajini, Advocate SR.No. 71552



W.P. (MD) No.14727 of 2017
09.08.2017

DAS/AKV
JM/MMS/SAR 3/10.08.2017/4P/4C