



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.08.2017

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THE HONOURABLE MR. JUSTICE S.S.SUNDARW.P. (MD) No.15530 of 2017

WEB COPY

S.Natarajan

... Petitioner

-Vs-

1. The Deputy Superintendent of Police,
Tenkasi Division,
(In-Charge Alankulam Division),
Tirunelveli District.

2. The Sub-Inspector of Police,
Oothumalai Police Station,
Oothumalai,
Tirunelveli 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 in C.No.20/H4PS/2017 dated 26.07.2017 passed by the second respondent and to quash the same and to consequently to direct to the second respondent to grant permission and necessary protection to perform the Innisai Katcheri on 01.09.2017 at 09.00 pm and 02.09.2017 at 10.00 pm in the eve of Arulmigu Sree Rathamudaiya Ayyanar Kovil at Solaicheri, V.K.Pudur Taluk, Tirunelveli District.

For Petitioner : Mr.S.Muthumalairaja

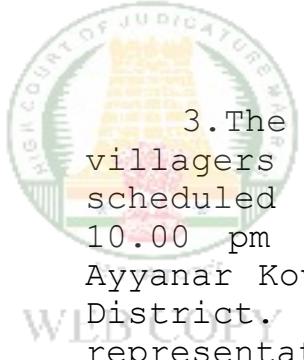
For Respondents : Mr.S.Sadhishkumar

Additional Government Pleader.

ORDER

This Writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order dated 26.07.2017 passed by the second respondent and to quash the same and to consequently to direct to the second respondent to grant permission and necessary protection to perform the Innisai Katcheri on 01.09.2017 at 09.00 pm and 02.09.2017 at 10.00 pm in the eve of Arulmigu Sree Rathamudaiya Ayyanar Kovil at Solaicheri, V.K.Pudur Taluk, Tirunelveli District.

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



3.The learned counsel for the petitioner submitted that the villagers jointly decided to conduct "Innisai Katcheri" programs scheduled to be held on 01.09.2017 at 09.00 pm and 02.09.2017 at 10.00 pm during the celebration of Arulmigu Sree Rathamudaiya Ayyanar Kovil, situated at Solaicheri, V.K.Pudur Taluk, Tirunelveli District. He further submitted that in this connection, a representation was given to the respondent on 26.07.2017, with a request to grant permission and protection to conduct the programs on the above said dates.

4.However, permission was refused by the second respondent in the impugned order dated 26.07.2017. Unfortunately, the second respondent, in the impugned order has stated only two reasons. The first reason is that Section 30(2) of Tamil Nadu Police Act is in force and the second reason is that the temple festival is being conducted by the persons belonging to various communities, jointly on 01.09.2017 and 02.09.2017.

5.This Court is of the view that both reasons are un-sustainable. As far as the first reason is concerned, Section 30(2) of Tamil Nadu Police Act, does not prohibit any activity and it is for the police to regulate, when permission is sought for. Article 19 of the Constitution of India, gives protection and strict prohibition is unconstitutional as the power is always meant to regulate.

6.Secondly, when people living in village and belongs to different castes and communities, joint together to conduct a temple festival, the same has to be encouraged. However in this case, the second respondent has rejected the permission on the ground that the people have joined for conducting the programme. It is open to the second respondent to put any conditions or restrictions, so as to ensure public order and communal harmony. In this case, the reason stated in the impugned order is not acceptable to this Court and therefore, the impugned order passed by the second respondent, dated 26.07.2017, is set aside. Hence, the Writ Petition is allowed with the following directions:

The second respondent/The Inspector of Police, Oothumalai Police Station, Tirunelveli District, is directed to consider the representation of the petitioner, dated 26.07.2017 and to give permission and to provide police protection for "Innisai Katcheri" programs during the celebration of Arulmigu Sree Rathamudaiya Ayyanar Kovil, situated at Solaicheri, V.K.Pudur Taluk, Tirunelveli District, scheduled to be held on 01.09.2017 and 02.09.2017, subject to the following conditions;

(a) the "Innisai Katcheri" programmes in connection with the festival in Arulmigu Sree Rathamudaiya Ayyanar Kovil, situated at Solaicheri, V.K.Pudur Taluk, Tirunelveli District, scheduled to be held from



01.09.2017 to 02.09.2017, should be completed before **10.30 p.m.** or within the time permitted by the second respondent.

(b) there should not be any kind of obscene dance or vulgar dialogues during the performance, by any one of the participants;

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

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

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

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

(g) 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;

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

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

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

7. It is open to 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 (RTI)

/True copy/

Sub Assistant Registrar

To

1. The Deputy Superintendent of Police,
Tenkasi Division,
(Tirunelveli Division),
Tirunelveli District.



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

+1 CC to M/s.S.MUTHUMALAIRAJA, Advocate, SR No. 73169.
+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 73487.

CMR/RMKV
PSM/KP/SAR3/29.08.2017/4P/5C

W.P. (MD) No. 15530 of 2017
18.08.2017