



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.15859 of 2017

Kumar

... Petitioner

Vs.

1.The Assistant Superintendent of Police,
Tenkasi,
Tirunelveli District.

2.The Inspector of Police,
Courtalam Police Station,
Courtalam,
Tirunelveli District.

... Respondents

Prayer: Writ 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 impugned order passed by the 1st respondent in Na.Ka.No.214/Thu.Ka.The.A/2017 dated 18.08.2017 and quash the same and consequently direct the respondents to give permission to conduct Vinayagar Sathurthi festival scheduled on 25.08.2017 and 26.08.2017 at Krishnan Kovil situated at Mela Ilanji Village, Tenkasi Taulk, Tirunelveli District.

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.A.K.Baskara Pandian,
Special Government Pleader.

O R D E R

The petitioner has come forward with this Writ Petition for issuance of a Writ of Certiofarified Mandamus, to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.214/Thu.Ka.The.A/2017 dated 18.08.2017 and quash the same and consequently direct the respondents to give permission to conduct Vinayagar Sathurthi festival scheduled on 25.08.2017 and 26.08.2017 at Krishnan Kovil situated at Mela Ilanji Village, Tenkasi Taulk, Tirunelveli District.

<https://hcservices.ecourts.gov.in/Services/> 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 every year the villagers have jointly conducted Vinayagar Chadurthi Festival and this year also the villagers jointly decided to conduct Vinayagar Chadurthi Festival and Vinayagar Statue Carinval on 25.08.2017 and 26.08.2017 at Krishnan Kovil situated at Mela Ilanji Village, Tenkasi Taulk, Tirunelveli District. He further submitted that in this connection, a representation was also given to the second respondent on 09.08.2017, with a request to grant permission and protection to conduct the programmes on the above said dates.

4.The learned Special Government Pleader, on instructions, submitted that the first respondent rejected the representation of the petitioner on the ground that permission has already been given for installation of 11 Vinayagar Idols and permission cannot be given to the petitioner as an order under Section 30(2) of Tamil Nadu Police Act is in force.

5.The learned counsel for the petitioner appearing for the petitioner submitted that the petitioner could not conduct Vinayagar Chadurthi festival during the last year on account of performance of Kumbabisegam. It is further submitted that previously the villagers have conducted Vinayagar Chadurthi festival by installing the Vinayagar Idol and taking the same in procession for immersion. The learned counsel appearing for the petitioner further submitted that no untoward incident happened during the past. He further submitted that the petitioner is prepared to give an undertaking to abide by the direction and suggestions with regard to the procession routes while taking the Vinayagar Idol in procession.

6.Having regard to the facts and circumstances of the case, this Court is not inclined to accept the reasons for rejecting the request of the petitioner. Section 30(2) of Tamil Nadu Police Act is in force throughout the State and there need not be any special reference to the provision in any individual case. Merely because permission was not given last year or during past, the same cannot be a reason for rejecting the request of the petitioner or any one to install the Vinayagar Idol and to conduct Vinayagar Chadurthi festival. Hence, the order passed by the first respondent on 18.08.2017 is set aside and this Writ Petition is allowed.

7.Having regard to the fact that the Vinayagar Chadurthi Festival is being organized throughout the State and considering the fact that the respondent police may not be able to supervise the conduct of festival in several places with the limited resources, the Court is inclined to pass the following order:

The second respondent is directed to consider the petitioner's request to conduct the Vinayagar Chadurthi Festival



and Lord Vinayagar Idol Procession on 25.08.2017 and 26.08.2017 at Krishnan Kovil situated at Mela Ilanji Village, Tenkasi Taulk, Tirunelveli District.

(a) The programme proposal indicated in the application dated 09.08.2017, should be strictly adhered to. If, the respondents have any suggestion regarding the procession, so as to avoid nuisance or to preserve public order and communal harmony, the petitioner is directed to co-operate fully without any deviation.

(b) The petitioner and the organizers shall conduct the programme in a peaceful manner without causing any hindrance to the public, affecting their normal life or causing any problem or provoking anyone belonging to any other religions.

(c) The petitioner and his men shall abide by any other restrictions or conditions that may be put by the respondent during the performance of Pooja or any other religious ceremony.

(d) The place in which the Vinayagar Statue is located and the manner in which the procession shall take place, should be intimated to the respondents well in advance.

(e) There will not be any song or slogan or dance affecting the religious sentiments of any other religion;

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

(g) The petitioner and their men shall provide sufficient security to the idols installed by them on their own and the petitioner can not expect the respondent to provide any police force to be deployed at the place when the idols of Lord Vinayagar is installed.

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

(i) 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;

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

(k) if any untoward incident takes place, the organizers of the programme be made responsible for the same; and

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(l) The petitioner shall also give an affidavit of undertaking to the first respondent that he will make security



arrangements for installation of Vinayagar Idol and taking the same in procession.

6. It is also open to the respondent police to put any further restrictions or to impose any conditions purely in the interest of preserving public order and tranquillity. No costs.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar.

To

1.The Assistant Superintendent of Police,
Tenkasi,
Tirunelveli District.

2.The Inspector of Police,
Courtalam Police Station,
Courtalam,
Tirunelveli District.

+1CC to Mr.R.J.Karthick , Advocate, SR.No.74108

+1CC to the Special Government Pleader SR.No. 74680

W.P.(MD)No.15859 of 2017

23.08.2017

Is/mm

JM/SV MMS/SAR 1/24.08.2017/4P/5C