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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD)No.18739 of 2017

and

W.M.P.(MD) No.15118 of 2017

M.H.Krishnan

... Petitioner

Vs.

1.The Commissioner of Police,
Madurai City,
Madurai.

2.The Assistant Commissioner of Police,
(Law and Order),
Anna Nagar,
Madurai.

3.The Inspector of Police,
E2 Police Station,
Mathichiyam,
Madurai District.

4.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

... 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 issued by the 2nd

Respondent in his proceedings Na.Ka.No.65/MLR/Ka.Vu.Aa/A.Na.Sa.O.Sa/Ma.Maa/2017, dated 05.10.2017 and quash the same on the ground that the same is arbitrary, illegal and without Jurisdiction and consequently directing the Respondents to give permission and protection to conduct Vijayadasami peaceful Procession with musical band and public meeting on 08.10.2017 from Ramarayar Mandapam to Anna Nagar (Suguna Stores) between 05.00 p.m to 06.00 pm to the Petitioner.

For Petitioner : Mr.V.Kathirvelu,
Senior Counsel
for M/s.Pon Senthilkumaran

For Respondents : Mr.V.R.Shanmuganathan,
Special Government Pleader.
for Mr.D.Muruganantham,
Additional Government Pleader

**ORDER**

This Writ Petition is filed for issuing a Writ of Certiorarified Mandamus to quash the order passed by the second respondent in his proceedings vide reference Na.Ka.No.65/MLR/Ka.Vu.Aa/A.Na.Sa. O.Sa/Ma.Maa/2017, dated 05.10.2017 and consequently to direct the respondents to give permission and protection to conduct the Vijayadasami peaceful procession with musical band and public meeting to be held on 08.10.2017 from Ramarayar Mandapam to Anna Nagar (Suguna Stores) between 05.00 p.m and 06.00 p.m. to the petitioner.

2.The petitioner states that he is a member of Rashtreeya Swayamsevak Sangh (RSS), a social and cultural organisation founded in the year 1925 and that the said organisation has been performing various social activities all over India. It is further submitted that the organisation has been celebrating Vijayadasami by conducting peaceful procession highlighting the communal harmony. It is the case of the petitioner that the organisation and its cadres are highly disciplined and they normally conduct the procession in the route approved by the law enforcing agencies strictly adhering to the conditions and without causing any inconvenience to the public. Even during the past, the petitioner states that RSS celebrated Vijayadasami by conducting procession and public meeting at Madurai. It is further stated that for this year permission was sought from the respondents to conduct the peaceful procession with musical band from Ramarayar Mandapam to Ambika Theatre between 05.00 p.m. and 6.00 p.m. on 08.10.2017. Since the petitioner was hopeful in getting permission, the petitioner states that to his dismay the second respondent, the Assistant Commissioner of Police (Law and Order), Annanagar, Madurai, by proceedings dated 05.10.2017 refused to grant permission mainly on the ground that several objections have been raised by other organisations and that there is likelihood of disruption of law and order. The other reasons stated in the impugned order is that the public will be put to inconvenience especially because the venue chosen by the petitioner is a busy area and allowing procession by the petitioner's organisation will cause inconvenience to the public because the procession is organised during Deepavali season.

3.The learned Senior Counsel appearing for the petitioner relied upon the order passed by this Court in a batch of Writ Petitions giving such permission for the previous year in the writ petitions filed by several members of the organisation in relation to the similar events in different parts of the southern district. It was further stated that there was no complaint from any quarter when the procession was conducted in the last year. He also relied upon the proceedings of the Deputy Commissioner of Police, Uthamapalayam Sub Division, Theni, dated 29.09.2017 wherein



permission was granted for conducting procession on 30.09.2017 in Gudalur, Theni District, subject to conditions. The learned Senior Counsel appearing for the petitioner also submitted that the respondents may be directed to give permission subject to the conditions as found in the order dated 29.09.2017.

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4.The learned Special Government Pleader appearing for the respondents, on instructions, submitted that the respondents have serious objections. When the matter was adjourned on 06.10.2017. It was represented by both parties that the programme can be postponed immediately after Deepavali for the petitioner to suggest the venue so that permission can be granted by the Deputy Commissioner of Police (Law and Order), Madurai City.

5.The second respondent has filed a counter affidavit today seriously contesting the writ petition. Since the proposed route, as per the representation, passes through the Government hospital, Aravind Eye Hospital and other hospitals, it is stated that the procession may obstruct the free movement of ambulances which passes through the same streets to reach the hospitals. Further objection is by citing the procession route as a place where there will be public movement at large scale on account of forthcoming Deepavali festival. It was also pointed out that the petitioner had sought for permission on the route suggested by him in his representation. Pursuant to the direction of this Court on 06.10.2017 a meeting had taken place on 07.10.2017. The second respondent in his counter affidavit has stated that the place requested by the petitioner cannot be considered having regard to law and order, traffic and public convenience. The second respondent also suggested two other routes as they have been designated as procession routes in Madurai city. Finally, the second respondent requested that, in case, this Court is inclined to grant permission, the same shall be given to the petitioner to conduct the procession on 22.10.2017 subject to other conditions.

6.The learned Special Government Pleader appearing for the respondents referred to some precedents and submitted that maintenance of law and order is ordinarily an executive function and this Court is not expected to interfere in such matters as the executive authorities have expertise knowledge and information in law and order problem. Since the law enforcing authorities are the best judges for meeting a situation prevailing in a particular locality it was contended further that the impugned order is perfectly valid.

7.The learned Special Government Pleader appearing for the respondents circulated a list of approved places which are suitable for organising the meetings, demonstrations and street ~~services~~ ~~meetings~~, etc. Though within the jurisdiction of Annanagar Police Station, Anna Bus Stand opposite to the TASMACH shop and the places near Suguna Stores are chosen as approved



places which is suitable for public street corner meetings, the learned Special Government Pleader has not given any specified routes for conducting procession.

8. The learned counsel appearing for the petitioner suggested few routes including the route from Bye-pass Road to Palanganatham Junction. Though this route was not seriously opposed, the learned Special Government Pleader submitted that the destination point can be Palanganatham Junction but the starting point should be from a different place restricting the distance of the procession as planned by petitioner.

9. The Hon'ble Supreme Court and this Court has time and again taken the view that conducting peaceful meeting or demonstration or peaceful procession is a right recognised under Article 19 of our Constitution and that unless there is specific law preventing such meeting or procession, the respondents can only regulate and cannot prohibit. Even the power under the provisions of Tamil Nadu Police Act has been interpreted by this Court as one conferring the power to the police officials only to regulate and not to prohibit.

10. In the counter affidavit, except pointing out certain inconvenience to the public and other law and order problem in anticipation, no concrete material is produced before this Court to justify their apprehension that there will be law and order problem. The petitioner's organisation has not been blamed or accused for any illegal or wrongful activities in this State. An organisation which commands some respect and reputation cannot be prevented from conducting a peaceful procession especially similar permission has been granted during past and the petitioner's organisation has conducted such procession without any room for any untoward incident of violence or disruption of public peace. Merely because some objection is raised by some other organisation, permission cannot be denied to the petitioner. The petitioner undertakes that the number of members participating in the procession will be around 300 and that they will maintain strict discipline and punctuality. It was further stated that the members of the petitioner sangh will participate with official uniform and the procession will lead by a musical band. The procession will be conducted without causing any disturbance to the general public. In such circumstances, this Court is inclined to allow this Writ Petition. As a result, the Writ Petition is allowed and the impugned order passed by the second respondent dated 05.10.2017 is set aside and the first respondent and the Deputy Commissioner of Police (Law and Order), Madurai City, Madurai are directed to give permission and adequate police protection to the petitioner to conduct Vijayadasami peaceful musical band and public meeting in the route starting from RSS Office (S.S.Colony), Bye-pass Road to Palanganatham Junction and to have the public meeting on



22.10.2017 subject to the following conditions:

(a) The petitioner and other participants shall not shout any slogan during the procession;

(b) The participants shall not bring any weapon or *lathi* or any other article that may cause injury to any one;

11. It is also open to the first respondent or the Deputy Commissioner of Police, Madurai City, to put any other reasonable restrictions / conditions purely for the purpose of maintaining law and order and communal harmony. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1. The Commissioner of Police,
Madurai City,
Madurai.

2. The Assistant Commissioner of Police,
(Law and Order),
Anna Nagar,
Madurai.

3. The Deputy Commissioner of Police (Law and Order),
Madurai City,
Madurai.

4. The Inspector of Police,
E2 Police Station,
Mathichiyam,
Madurai District.

5. The Inspector of Police,
Anna Nagar Police Station,
Madurai City.

+1cc to Mr.S.PON SENTHILKUMARAN, Advocate, SR.82482

+2cc to Mr.S.JEYASINGH, Advocate, SR.82418

+1cc to M/S.Special Government Pleader, SR. 82657

W.P. (MD) No.18739 of 2017
10.10.2017

SRM