



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.23221 of 2017

and

W.M.P. (MD) Nos.19522, 19523, and 19524 of 2017

M.Sivakumar

... Petitioner

Vs.

1.The Superintendent of Police,
Kanyakumari District, Nagercoil.

2.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

3.S.Jayaprakash

... Respondents

(R3 has been impleaded as a party, vide order of this Court dated 22.12.2017).

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, praying to call for the records of the second respondent in his order dated 13.12.2017 and quash the same as it is non application of mind and consequently to direct the first and second respondents to grant permission to Celebrate "Pure & Good Governance Day as well as Atal Bihari Vajpai's Birthday" on 25.12.2017 at the ground in Survey No.119-9.A.7.D., Aramannam Village, Cheruppalur Post, Kanyakumari District, based on the petitioner's application dated 13.12.2017.

For Petitioner :Mr.M.Karthikeya Venkitachalapathy

For R1 and R2 :Mr.D.Muruganantham
Additional Government Pleader.

For R3 :Mr.N.Dilipkumar

O R D E R

The petitioner has come forward with this Writ Petition to call for the records of the second respondent in his order dated 13.12.2017 and quash the same and consequently to direct the first and second respondents to grant permission to celebrate "Pure & Good Governance Day as well as Atal Bihari Vajpai's Birthday" on 25.12.2017 at the ground in Survey No.119-9.A.7.D., Aramannam Village, Cheruppalur Post, Kanyakumari District, based on the petitioner's application dated 13.12.2017.



Good Governance Day as well as Atal Bihari Vajpai's Birthday" on 25.12.2017 at the ground in Survey No.119-9.A.7.D., Aramannam Village, Cheruppalur Post, Kanyakumari District, based on the petitioner's application dated 13.12.2017.

2.The petitioner states that he is functioning as President of Youth Wing of the Aramannam Bharathia Janatha Party. It is stated that this year, the petitioner and his men have decided to celebrate the birthday of Shri Atal Bihari Vajpai, former Prime Minister of this Country and the leader of the Bharathia Janatha Party. It is in this regard, a formal representation was submitted by the petitioner before the second respondent. In the representation nothing was indicated as to the programme and as a matter of fact, no programme leaf or invitation is included along with permission application.

3.The representation by the petitioner was however rejected by the second respondent on the ground that already "Hindu Munnani" and a Christians organisation have proposed to celebrate the programme on the same day and if such permission is given to the petitioner, the same will lead to law and order problem.

4.The learned Counsel for the petitioner submitted that the impugned order rejecting permission to the petitioner was passed without giving any opportunity to the petitioner to to afford explanation to the respondent. The petitioner further stated that on earlier occasion, similar function was conducted peacefully and this year the application for permission is not considered by the second respondent. The learned Counsel for the petitioner further submitted that the refusal to grant permission to the petitioner is unwarranted as the petitioner organisation is celebrating the birthday anniversary of a great leader, just to honour him and that it is not likely to affect anybody's right or freedom.

5.The learned Counsel for the third respondent has produced the photographs, which shows that the participants of the petitioner's organisation in all the protest meeting or agitation by the RSS in the area. It is submitted by the learned Counsel for the third respondent that the petitioner belongs to a different area altogether and the petitioner has organised the birthday celebration of the former Prime Minister was only to cause hindrance to the Christmas festival proposed by the third respondent, just opposite to the place now chosen by the petitioner for his function, apprehending that granting of permission may cause some problem or inconvenience or disturbance to their function. The learned Counsel for the third respondent submitted that grant of permission this year certainly will cause some law and order problem. It is further represented by the third respondent that the petitioner has not conducted similar programme or function during the past and that therefore permission should not be granted for the first time this year.



6. Considering the submissions of the both sides including the learned Additional Government Pleader, it is to be noted that every citizen of this country has got his right to assemble for any lawful activity. Birthday celebration of a political leader is very common in this Country and that therefore the permission can never be refused, unless there are some reasons and circumstances indicating that the object of the programme is to disturb the peace and tranquillity in that area. There is no material placed or brought to the notice of this Court about any such object behind the conduct of the birthday celebration of the former Primer Minister of this country. Hence, this Court cannot assume any motive except looking it as a the political function of the ruling party.

7. However, this Court taking judicial notice of the fact that the proposed Christmas celebration of the third respondent was very much opposed by persons, who are conducting Sappthamathargal Thirukovil temple festival in the same locality and the way in which the organizers of the temple festival reacted to a situation of this nature, the purpose of celebration may be to embarrass the persons belonging to other religion.

8. Having regard to the various aspects and peculiar facts that has been brought to the notice of this Court, this Court is inclined to pass the following order:

"The impugned order passed by the second respondent dated 13.12.2017 is set aside and the second respondent is directed to grant permission to celebrate "Pure & Good Governance Day as well as Thiru Atal Bihari Vajpai's Birthday" on 25.12.2017 between 10.00 a.m., and 01.30 p.m., in any patta land, with necessary permission from the owners, in Aramannam Village, Cheruppalur Post, Kanyakumari District".

9. It is open to the respondent police to put any reasonable restrictions or conditions, so as to maintain law and order and harmony. The Petitioner shall not cause any obstruction or any hindrance to the function proposed by the third respondent, for which this Court has granted permission earlier.

10. In view of the above, this Writ Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/



To

1.The Superintendent of Police,
Kanyakumari District, Nagercoil.

2.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

+1CC to Mr.N.Dilip Kumar, Advocate, SR.No. 94679

W.P. (MD) No.23221 of 2017
22.12.2017

cmr

AM/SV MMS/SAR 1/22.12.2017/4P/4C