

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.6986 of 2018
and
W.M.P.No.8635 of 2018

C.Vaidyanthan Achari,
Executive Trustee,
Sri Kamachi Amman Devasthanam,
Cuddalore-3.

... Petitioner

versus

1. The Regional Divisional Officer,
Sub Collector Office,
Cuddalore-1.
2. The District Collector,
Cuddalore District,
Cuddalore-1.
3. Superintendent of Police,
Cuddalore District,
Cuddalore-1.
4. Deputy Superintendent of Police,
Cuddalore Division,
Cuddalore District,
Cuddalore-1.
5. The Inspector of Police,
Madunagar Police Station,
Cuddalore.
6. The Commissioner,
Cuddalore Municipality,
Cuddalore-1.
7. The Secretary,
State of Tamilnadu,
HR & CE Department,
St.George Fort,
Chennai - 600 009.

...Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus and quash the order of the 5th respondent dated 20.03.2018 and consequentially direct the 1st respondent to permit the petitioner temple to take out the Temple Car during the night time on the day of Panguni Uthiram festival every year as per the custom followed by the petitioner Temple for the past 200 years and to provide the necessary protection and co-operation by the respondents for the conduct of the Panguni Uthiram festival as per the Sastras.

For Petitioner : Mrs.Chitra Sampath,
Senior counsel for
T.S.Baskaran

For Respondents: Mr.R.Govindasamy,
Special Government Pleader for R1 to R6
Mr.M.Maharaja,
Special Government Pleader for R7

O R D E R

Mr.R.Govindasamy, learned Special Government Pleader takes notice for the respondents 1 to 6 and Mr.M.Maharaja, learned Special Government Pleader takes notice for the 7th respondent.

2. The petitioner, claims to be the Executive Trustee of Sri Kamachi Amman Devasthanam, Cuddalore-3, has filed this writ petition challenging the order of the 5th respondent dated 20.03.2018, denying police permission to conduct the car festival on 31.03.2018 on the reason that the petitioner did not obtain permission from the Revenue Department and that there is likelihood of danger to the public safety at the time of such festival, since the same is proposed to be conducted during night hours. Consequently, the petitioner seeks for a direction to the first respondent to permit the petitioner Temple to take out the Temple car during night time on the day of Panguni Uthiram festival every year as per the custom followed by the petitioner Temple and to provide necessary protection and co-operation by the respondents for conduct of the said festival as per the Sastras.

3. Heard, Mrs.Chitra Sampath, learned senior counsel appearing for the petitioner, Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents 1 to 6 and Mr.M.Maharaja, learned Special Government Pleader appearing for the 7th respondent.

4. The petitioner is representing a denominational temple called Sri Kamachi Amman Temple at Cuddalore. It is stated that the administration of the said Temple is vested with the Board of Trustees elected from the Vishwakarma Community residing in Cuddalore. It is further stated that during the month of Panguni, the Temple car is taken out on the day when the star

'Utharam' and Lagnam 'Magharam' fall which is invariably during midnight. It is further stated that such custom and practice are being carried on every year for the past more than 200 years as per Agama Sastras. However, every year the Temple has to make an application before the Revenue Divisional Officer to grant permission to conduct such car festival during such night hours. For the present year, the said festival has to take place on 31.03.2018 between 1.30 a.m. and 2.30 a.m.. The Temple made an application before the first respondent on 13.02.2018 and sought permission. The first respondent, in turn sought a report from the 5th respondent police, who in turn, passed the present impugned order.

5. Learned senior counsel for the petitioner submitted that under similar circumstances, the petitioner approached this Court and filed writ petitions during the years 2015, 2016 & 2017 and on all such occasions, this Court has considered the time schedule of such car festival and permitted the petitioner to conduct such festival in the night hours on those years. Therefore, she submitted that for the present year also, there cannot be any difficulty for the first respondent to grant permission which he has not given so far. She further contended that the 5th respondent cannot change the centuries' old custom and practice in conducting such festival during night hours by anticipating that some accident will take place if the car festival is conducted during night hours. Therefore, she sought for a direction to the first respondent to grant permission to the petitioner to conduct such festival also by issuing further direction to the police to extend necessary protection for the same.

6. Learned Special Government Pleader, based on instructions, submitted that the application filed by the petitioner is pending before the first respondent, who will pass orders on merits and in accordance with law, also after considering the report filed by the police.

7. Heard both sides.

8. There is no dispute to the fact that the petitioner is a denominational temple. It is also not in dispute that the petitioner temple is conducting car festival every year in the month of 'Panguni' during night hours when the star 'Utharam' and Lagnam 'Magharam' fall at a particular point of time. It is also not in dispute that for the past three years, the petitioner had approached this court by filing writ petitions on every such occasion seeking such permission. It is seen that this Court has disposed those writ petitions, resulting out of which, the petitioner has conducted the car festival during night hours in those years. For the present year, the application filed before the 1st respondent is still pending.

9. No doubt, the 5th respondent has passed the present impugned order by stating the reason as stated supra. However, this Court is of the view that the 5th respondent at the same time, cannot ignore the fact that the said festival is being

conducted for centuries during night hours and therefore, such custom and practice cannot be changed by the officials casually by stroke of a pen. Such centuries old custom and religious practice cannot be ignored or found as insignificant, since such long run customs, privileges and practices go with the sentiment of the people of such locality with which the Government machinery cannot interfere in a casual manner as has been done in this case, that too, under mere apprehension, unless there were some untoward incidents taken place in the past which went beyond the control of law enforcing authority. Even under such circumstances, the interference could be only by way of regulatory measure and certainly not to ban or prohibit the very event itself. Administrative inconvenience or anticipated incidents may not be cited as the reason to stop instantly such centuries old religious customs and practice, unless such events themselves become unlawful by this time. In this case, from the impugned order, I do not find any such reasoning except the expression of mere apprehension of the 5th respondent. Thus, the impugned order cannot be sustained. Moreover, when this Court has earlier considered the very same issue in the past three years and allowed such event to take place during night hours, I do not think that there will be an impediment for the first respondent to consider the request of the petitioner in the light of the orders already passed by this Court in W.P.Nos.8163/2015, 9602/2016 & 8530/2017. The petitioner shall produce a copy of those orders before the first respondent once again if the same are not produced already. The first respondent shall pass appropriate orders by taking note of the earlier orders passed by this Court in respect of previous years. The police authorities shall also extend sufficient protection at the time of conduct of such festival. At the same time, it is the duty of the petitioner Temple to cooperate with the officials in conducting the said festival in a peaceful manner without giving room for any complaint whatsoever from any quarter. It is open to the revenue officials as well as the police to impose strict terms and conditions on the Temple for conducting car festival during night hours in order to avoid any untoward incident during such time.

10. With the above observation, the writ petition is disposed of accordingly. Connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

vsi

To

1. The Regional Divisional Officer,
Sub Collector Office, Cuddalore-1.
2. The District Collector,
Cuddalore District, Cuddalore-1.
3. Superintendent of Police,
Cuddalore District,
Cuddalore-1.
4. Deputy Superintendent of Police,
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5. The Inspector of Police,
Madunagar Police Station,
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6. The Commissioner,
Cuddalore Municipality,
Cuddalore-1.
7. The Secretary,
State of Tamilnadu,
HR & CE Department,
St. George Fort,
Chennai - 600 009.

+ 2 cc to T.S.Baskaran Advocate, SR.22401
+ 1 cc to The Govt. Pleader, SR.22817

W.P.No.6986 of 2018

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nr 26/03/2018

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