

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Writ Petition No.21598 of 2018

Nathi S.Rajavel
District Secretary,
Kongunadu Makkal Desia Katchi
Namakkal District (West)
No.251, Swornambigai Shed
Sankagiri Road,
Tiruchengodu - 637 211. Petitioner

Vs.

- 1.The Superintendent of Police,
Namakkal District,
Namakkal.
- 2.The Inspector of Police,
Thiruchengodu Town Police Station,
Thiruchengodu,
Namakkal District. Respondents

Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorarified Mandamus, call for the records of the second respondent in its proceedings in Na.Ka.No.48/T.Code Town/2018 dated 20.08.2018 and quash the same and consequently, direct the second respondent herein to grant permission to the petitioner herein to conduct a rally by walk on Saturday i.e., 25.08.2018 at 9am starting from Thiruchengode New Bus Stand to Manickampalayam and thereafter conduct a public meeting at Manickampalayam to invite the attention of the Government of Tamil Nadu to implement the project.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents :Mr.P.H.Arvind Pandian, AAG-II assisted by
Mr.V.Shamugasundar, Spl.GP

O R D E R

The petitioner has come up with this writ petition to quash the order dated 20.08.2018 passed by the second respondent, thereby rejecting the request of the petitioner seeking permission to conduct a rally by walk on 25.08.2018 starting from Thiruchengodu New Bus Stand to Manickampalayam and thereafter a meeting at Manickampalayam, on the ground that the same is against the fundamental right of peaceful assembly guaranteed under Article 19(1) (a) and 19(1) (b) of the Constitution of India.

2.Mr.V.P.Sengottuvel, learned counsel for the petitioner submitted that the proposed rally and the meeting are with an object to invite the attention of the Government to implement the Cauvery-Ponni River and Thirumani Manimuthar Project and the Government proposed a project called "Cauvery - Ponni River and Thirumani Manimuthar Project" to divert excess flow of Cauvery water from Mettur Dam to Paramathi Velur through Ponni River and Manimuthar River in the Districts of Salem and Namakkal for the benefit of several drought affected villages and however, the said project has not been implemented till date. Hence, the petitioner submitted a representation dated 01.08.2018 seeking permission to conduct a rally by walk and meeting on 25.08.2018 starting from Thiruchengodu New Bus Stand to Manickampalayam to invite the attention of the Government to implement the project. However, the second respondent rejected the said representation by the order impugned in this writ petition. The learned counsel further submitted that on an earlier occasion, by order dated 13.12.2013 in WP.No.31325 of 2013, the petitioner had got permission to conduct two wheeler rally from Kalipatti to Paramathi Velur and thereafter, hold a meeting near Paramathi Velur Old Bus Stand on 24.11.2013, subject to certain conditions. Thus, the learned counsel prayed for a similar order in this writ petition as well.

3.On the other hand, Mr.P.H.Arvind Pandian, learned Additional Advocate General-II assisted by Mr.V.Shanmugasundar, learned Special Government Pleader appearing for the respondents submitted that the permission sought by the petitioner cannot be granted, as the same will affect the free flow of traffic and cause nuisance to the public peace and tranquillity.

4.Mr.M.Bharathimohan, Inspector of Police, Tiruchengode Town Police Station, Namakkal District, second respondent herein, who is present in person, during the course of hearing, submitted that the route through which the rally is proposed to be conducted is a congested area

and the time sought by the petitioner to conduct the rally is morning peak hours, which is also very crucial. However, the second respondent suggested that in case, this Court grants permission, the route shall be Kumaramangalam junction to Manickampalayam junction between 2.00pm and 4.00pm., for which, the learned counsel for the petitioner has no serious objection.

5.This Court perused the earlier order dated 13.12.2013 passed in WP.No.31325 of 2013, wherein, this Court, after meticulously examining the relevant facts, rival submissions and earlier decisions of the Supreme Court as well as this Court, disposed of the said writ petition, directing the respondents therein to grant permission as sought by the petitioner therein. For better appreciation, the operative portion of the said order read as follows:

"13.In the light of the above, the request made by the petitioner to conduct a two wheeler rally and public meeting has to be accepted and the permission to be granted. The date suggested by the petitioner to conduct two wheeler rally and public meeting is 15.12.2013.

14.Accordingly, the respondents are directed to accord permission to the petitioner for conducting two wheeler rally, subject to the following conditions:

(1)the petitioner shall hold a two wheeler rally starting from Trichengode to Vellur, Namakkal District between 4.00pm to 5.30pm on 15.12.2013 and the number of two wheelers permitted to participate is restricted to 150 only. It is the discretion of the respondents to fix a place for meeting with the gathering of 1,500 people either in the location suggested by the petitioner or in the alternative place as mutually agreed upon between the petitioner and the respondents;

(2)the petitioner is directed to advise cadres of the party to keep line discipline in two rows at the extreme end of the left side of the road in an orderly manner from the starting point till destination without causing disturbance to the general public as also to the free flow of traffic in the area in adherence to the traffic rules;

(3)the petitioner shall conduct the rally without affecting law and order and without any hindrance to the public tranquillity;

(4)while in the rally, the petitioner and his party cadres shall not shout any slogans affecting the religious sentiments of the people and they would do everything in a dignified manner and the organisers of the two wheeler rally shall not allow any untoward incident to happen;

(5)if there is any violation of the undertaking given by the petitioner dated 11.12.2013 or deviation from the direction issued by this Court, the respondents/law enforcing authorities are at liberty to initiate action against persons concerned as may be necessary in the circumstances."

6.Considering the facts and circumstances of the case and having regard to the rival submissions and also taking note of the aforesaid order, this Court is inclined to direct the respondents to grant permission to the petitioner for the proposed rally and meeting in the place and time as suggested by the second respondent, subject to certain conditions.

7.Accordingly, the writ petition is disposed of, directing the respondents to accord permission to the petitioner for conducting a rally by walk on 25.08.2018, subject to the following conditions:

(a)The petitioner shall hold a rally starting from Kumaramangalam Junction to Manickampalayam Junction between 2.00pm to 4.00pm. It is the discretion of the respondents to fix a place for meeting either in the location suggested by the petitioner or in the alternative place as mutually agreed upon between the petitioner and the respondents;

(b)The petitioner is directed to advise cadres of the party to keep line discipline in two rows at the extreme end of the left side of the road in an orderly manner from the starting point till destination without causing disturbance to the general public as also to the free flow of traffic in the area in adherence to the traffic rules;

(c)The petitioner shall conduct the rally without affecting law and order and without any hindrance to the public tranquillity;

(d)While in the rally, the petitioner and his party cadres shall not shout any slogans affecting the sentiments of the people and they would do everything in a dignified

manner and the organizers of the rally shall not allow any untoward incident to happen;

(e) If there is any violation of the undertaking given by the petitioner or deviation from the direction issued by this Court, the respondents/law enforcing authorities are at liberty to initiate action against the persons concerned as may be necessary in the circumstances. No costs.

Sd/-/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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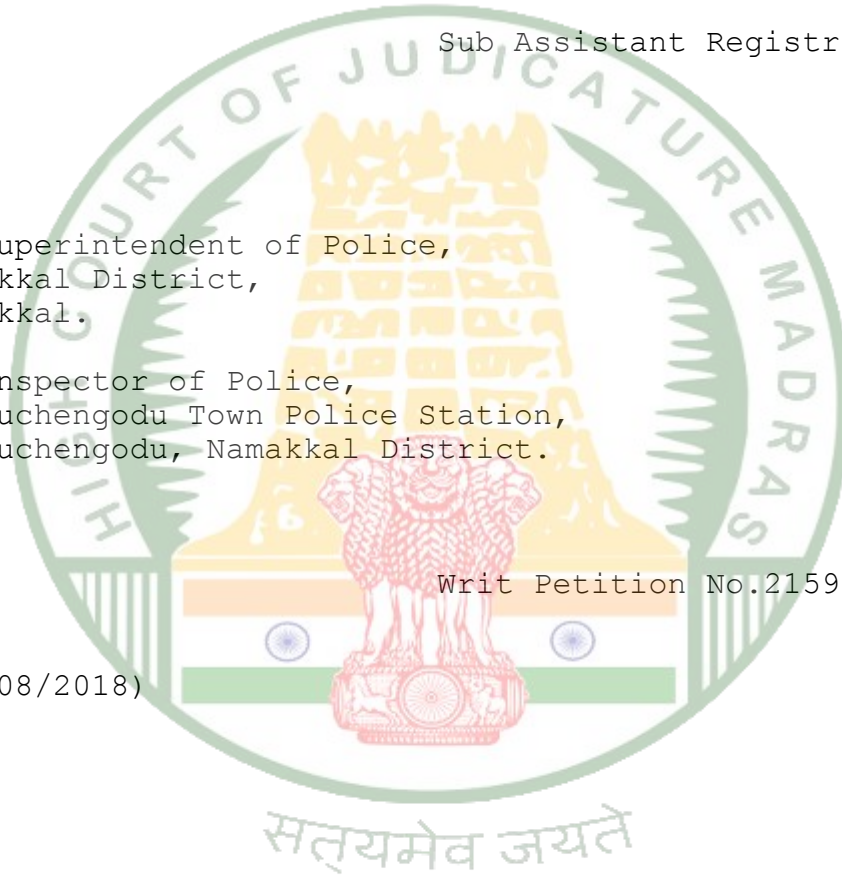
To

1. The Superintendent of Police,
Namakkal District,
Namakkal.

2. The Inspector of Police,
Thiruchengodu Town Police Station,
Thiruchengodu, Namakkal District.

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ASK (23/08/2018)



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