

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2018

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.28436 of 2018

Elango @ Elaiya Aruna

...Petitioner

Versus

1.Asst. Commissioner of Police,
Royapuram Circle,
Chennai-13.

2.Inspector of Police,
N1 Royapuram Police Station,
Royapuram,
Chennai-13.

...Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.127/Kaa.Vu.Aaa(Era)/General/18, dated 19.10.2018 on the file of the 1st respondent and quash the same and consequently directing the respondents to grant permission to the petitioner to conduct public meeting at Bashyam Street in Royapuram, Chennai on a specified day by the petitioner.

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This Writ Petition has been filed challenging the impugned order passed by the 1st respondent, dated 19.10.2018, denying the permission to the petitioner to conduct the public meeting at Bashyam Street in Royapuram, Chennai.

2.The learned counsel for the petitioner would submit that the petitioner approached the respondent Police seeking for permission to conduct a public meeting on 05.10.2018. The learned counsel would further submit that the venue at which the

public meeting was planned to be held, is a regular venue where all public meetings are conducted by various political parties in the past. According to the learned counsel for the petitioner, the permission has been denied on a mechanical ground that the same will give rise to law and order problem. Therefore, the learned counsel for the petitioner would submit that the impugned order is liable to be set aside and the respondent Police must be directed to grant permission and give necessary police protection to the petitioner to conduct the public meeting in a future date.

3.The learned Additional Public Prosecutor, on instructions, would submit that the date on which the meeting was scheduled to be conducted is already over and therefore, the petitioner can be directed to give a fresh representation to the respondent Police in order to enable the respondent Police to consider the same afresh and pass necessary orders in accordance with law.

4.This Court has carefully considered the submissions on either side.

5.A close look at the impugned order passed by the 1st respondent would reveal the fact that the order is passed without any reasoning and it is more general in nature. The impugned order has been passed only on an apprehension that conducting the public meeting will lead to unnecessary law and order problem. The impugned order also proceeds on the ground that the venue where the public meeting was scheduled to be held is a place, which has more access to the general public and therefore, there is a chance of law and order problem.

6.The reasoning given in the impugned order is completely flawed and not supported by any material. After all, the Police are expected to maintain law and order in a locality. Admittedly, the venue in which the meeting was scheduled to be held is a regular venue where such meetings have been held in the past by various political parties. Unless and otherwise, there are very compelling reasons for the Police to deny permission to hold a public meeting, the impugned order of this nature cannot be passed in a mechanical fashion, by denying permission to all public meetings and driving the concerned persons to the Court. By passing such mechanical orders, the respondent Police is only denying the fundamental rights of the petitioner, which is guaranteed under Article 19(1)(a) of the Constitution of India. Even the restrictions as contemplated under Article 19(2), are reasonable restrictions and it cannot go to the extent of taking away the very fundamental right itself.

7.This Court has no hesitation in interfering with the impugned order passed by the 1st respondent. Accordingly, the impugned order dated 04.10.2018, is hereby set aside. The petitioner is directed to make a fresh representation to the 1st respondent indicating the date and time of the public meeting to be held in future. The 1st respondent, on receipt of such representation made by the petitioner shall permit the petitioner to conduct the public meeting by imposing any reasonable conditions. The respondent Police shall ensure that the public meeting is conducted in a peaceful manner without giving rise to any law and order problem. The petitioner is also bound to comply with the conditions imposed by the 1st respondent. The 1st respondent shall give permission and also provide sufficient police protection at the time when the public meeting is held.

8.With the above said direction, the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(Cs IX)

//True Copy//

Sub Assistant Registrar

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To

1.The Asst. Commissioner of Police,
Royapuram Circle,
Chennai-13.

2.The Inspector of Police,
N1 Royapuram Police Station,
Royapuram,
Chennai-13.

+1cc to Mr.R.Neelakandan, Advocate SR.NO.76840

sm:12.11.2018

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