

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.29584 of 2018

and

W.M.P.Nos.34550 and 34552 of 2018

D.K.Rajendran

District Secretary - Dharmapuri District,
Amma Makkal Munnetra Kazhagam (AMMK),
No.7/8, Kizh Masuthi Street,
Dharmapuri - 636 702.

...Petitioner

Versus

1.The Superintendent of Police,
Office of the District Superintendent of Police,
Dharmapuri District, Dharmapuri - 636 705.

2.The Deputy Superintendent of Police,
Harur Range, Dharmapuri District.

3.The Inspector of Police,
Pappireddipatti Police Station,
Pappireddupatti - 636 905,
Dharmapuri District.

...Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent culminating in his impugned proceedings bearing Na.Ka.No.11/C7 PS/18 dated 05.11.2018, quash the same and consequently direct the respondents to forthwith grant permission to organize and conduct the Hunger Strike between 09.00 a.m., and 05.00 p.m., on 14.11.2018 near the M.G.R.Statue outside Pappireddipatti Bus Stand, Pappireddipatti, Dharmapuri District, as sought for by the petitioner vide his letter/application submitted in person to the respondents and also sent by Registered Post with reacknowledgment Due on 29.10.2018.

For Petitioner : Mr.Arun Anbumani

For Respondents : Mr.A.Natarajan
Public Prosecutor

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd respondent culminating in his impugned proceedings bearing Na.Ka.No.11/C7 PS/18 dated 05.11.2018, quash the same and consequently direct the respondents to forthwith grant permission to organize and conduct the Hunger Strike between 09.00 a.m., and 05.00 p.m., on 14.11.2018 near the M.G.R.Statue outside Pappireddipatti Bus Stand, Pappireddipatti, Dharmapuri District, as sought for by the petitioner vide his letter/application submitted in person to the respondents and also sent by Registered Post with reacknowledgment due on 29.10.2018.

2. The learned counsel for the petitioner would submit that the petitioner is the District Secretary, Amma Makkal Munnetra Kazhagam (AMMK), Dharmapuri District. The petitioner had made a representation to the 3rd respondent seeking for permission to hold peaceful Hunger Strike on 14.11.2018 between 09.00 a.m., and 05.00 p.m. This representation made by the petitioner has been rejected by the 3rd respondent by impugned proceedings dated 05.11.2018 on the ground that the venue, where the Hunger Strike was planned to be conducted is a place where there will be crowding of people and traffic congestion and the normal life of the general public will be affected. The rejection was also made on the ground that there is a prohibition order in force under Section 30(2) of Indian Police Act. The order of rejection also cited some more reasons and the end result was that the petitioner was denied the permission to hold the Hunger Strike on 14.11.2018 between 09.00 a.m., and 5.00 p.m.

3. The learned counsel for the petitioner would submit that the reasons stated by the 3rd respondent in the impugned proceedings are unsustainable and the learned counsel brought to the notice of this Court, the earlier permission granted by the very same police to conduct a meeting in the very same venue. The learned counsel would further submit that the prohibition order under Section 30(2) of the Indian Police Act is merely regulatory in nature and the same cannot be used to completely curtail the freedom of expression guaranteed under the Constitution of India. The learned counsel would further submit that the other reasons given in the impugned proceedings are insignificant reasons, which does not justify the stand of the 3rd respondent in denying the permission to the petitioner to hold the Hunger Strike.

4. The learned Public Prosecutor Mr.A.Natarajan, representing the Additional Public Prosecutor would submit that 14.11.2018 being Childrens Day, bandobust arrangements have been made in several places on account of the Childrens Day celebration and therefore, the respondent police will not be in a position to give any permission or police protection to conduct the Hunger Strike on 14.11.2018. The learned Public Prosecutor would further submit that the venue that has been chosen by the petitioner is a very busy traffic congested place, where if the petitioner is permitted to conduct the Hunger Strike on 14.11.2018, the same will cause unnecessary hardship to the general public and it will lead to the disruption of the normal life of the people living in and around the said area. The learned Public Prosecutor would further submit that in a recent function that was held, the members belonging to this particular political party had indulged in violent activities, resulting in the registration of FIR in Crime No.224 of 2018 on 31.10.2018. Therefore, the learned Public Prosecutor would submit that the petitioner and his party will have to give an undertaking that they will not indulge in any violent activities and they will comply with the reasonable conditions that are imposed by the respondent police, if in case any permission is granted to conduct the Hunger Strike. The learned counsel for the petitioner would submit that the party in question did not indulge in any violent activities and the concerned police have proceeded to register a FIR against the office bearers of the above said party due to political consideration.

5. This Court has carefully considered the submissions made on either side.

6. The learned Public Prosecutor has taken a specific stand that it will not be possible for the police to grant any permission or police protection to the petitioner to conduct the Hunger Strike, since 14.11.2018 happens to be childrens day and the police will have to go on bandobust duty to several places within the 3rd respondent jurisdiction police station, on account of the celebrations that are going to take place on the said day.

7. When a suggestion was made to the learned counsel for the petitioner with regard to the change in date for the purpose of conducting Hunger Strike, the learned counsel for the petitioner would submit that the petitioner is willing to postpone the Hunger Strike from 14.11.2018 to 15.11.2018, if the same will result in the police granting permission and police protection for conducting the Hunger Strike.

8. It is seen from the records that the place, where the Hunger Strike is planned to be conducted is a regular place, where public meetings are permitted by the respondent police for

all the other political parties. Therefore, there cannot be any serious objection with regard to the venue in which the Hunger Strike is planned to be conducted. However, taking into consideration the fact that 14.11.2018 is a Childrens Day and the respondent police will not be in a position to give police protection, the petitioner is directed to submit a fresh representation to the 3rd respondent seeking for permission to conduct the Hunger Strike on 15.11.2018 between 09.00 a.m., and 05.00 p.m., at the same venue. The 3rd respondent on receipt of the representation, shall grant permission to the petitioner to organise and conduct the

Hunger Strike between 09.00 a.m., and 05.00 p.m., on 15.11.2018 near the M.G.R Statue at Pappireddipatti Bus Stand. The petitioner while making the representation shall also give a specific undertaking that the petitioner and the party members shall not indulge in any violent activities and they will abide by any reasonable conditions that may be imposed by the 3rd respondent for conducting the Hunger Strike, in order to ensure that the same goes on peacefully, without giving raise to any law and order problem.

9. In the result, the writ petition is allowed, the impugned proceedings of the 3rd respondent dated 05.11.2018 made in Na.Ka.No.11/C7 PS/18 is hereby quashed. The petitioner shall make a fresh representation as indicated above to the 3rd respondent and the 3rd respondent shall grant permission to the petitioner by imposing reasonable conditions and the petitioner is bound to comply with the same. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

1.The Superintendent of Police,
Office of the District Superintendent of Police,
Dharmapuri District, Dharmapuri - 636 705.

2.The Deputy Superintendent of Police,
Harur Range, Dharmapuri District.

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3.The Inspector of Police,
Pappireddipatti Police Station,
Pappireddupatti - 636 905,
Dharmapuri District.

+1cc to Mr.Arun Anbumani, Advocate, S.R.No.77024

+1cc to the The Public Prosecutor,High Court,Madras S.R.No.77153

W.P.No.29584 of 2018

rrs 13/11/2018



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