

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 14.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N. ANAND VENKATESH

W.P.No. 29860 of 2018
and
W.M.P.No.34863 of 2018

P.Vetrivel

... Petitioner

Vs.

1. The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai,
Vepery, Chennai.

2. The Inspector of Police,
P-5, MKB Nagar Police Station,
MKB Nagar,
Chennai.

... Respondents

For Petitioner : Mr.P.S. Raman SC
for Mr.Raja Senthoo Pandian

For Respondents : Mr.Mohamed Riyaz
Additional Public Prosecutor

Prayer: Writ Petition filed under Section 226 of Constitution of India praying to issue a writ of Certiorarified Mandamus, calling for the records of the first respondent culminating in his impugned proceedings bearing No.1507/Tha.B.2/2018-1 dated 05.11.2018, quash the same and consequently direct the respondents to forthwith grant permission to organise and conduct the Hunger strike on 17.11.2018 between 9.00 a.m to 05.00 p.m at Magagavi Bharathi Nagar, 1st Cross Street, Service Road Opposite to Dr.Ambedkar Arts College, Vyasarpadi, Chennai District and to install display board and sound systems during the Hunger strike and police protection and bundobust as sought by the petitioner's representation dated 23.10.2018 submitted to the first respondent.

ORDER

This petition has been filed challenging the order passed by the first respondent rejecting the application filed by the petitioner seeking permission to organise and conduct the Hunger

Strike on 17.11.2018. between 9.00 a.m to 5.00 p.m.

2. The petitioner was a M.L.A, representing Perambur Constituency. The petitioner made a representation to the respondent police seeking permission to organise Hunger Strike on 17.11.2018 in order to express the displeasure of the policy of the Government and to express the grievance of the people in not providing certain basic amenities in the constituency. This representation was made on 23.10.2018. The representation was rejected by the first respondent by his impugned order dated 05.11.2016 on the ground that the venue where the agitation was planned to be held is a crowded area and permitting the petitioner to hold the Hunger Strike in the said venue will cause untold hardship to the general public. The first respondent rejected the permission even on the ground that right of freedom of expression is not a absolute right and it is subject to reasonable restriction.

3. Mr.P.S.Raman, learned senior counsel representing the counsel appearing for the petitioner would submit that the rejection has been made by the first respondent in a mechanical fashion. The learned senior counsel would further submit that as an elected M.L.A, the petitioner has a right to ventilate the grievance of the people belonging to his constituency and the same cannot be denied without there being any serious complaints against the petitioner. The learned senior counsel would further submit that when earlier permission was granted by this Court, there has never been any complaint regarding any law and order problem or any violation of conditions imposed by the police. Therefore, the learned senior counsel would submit that the rejection order passed by the first respondent is unsustainable.

4. The learned Additional Public Prosecutor representing the respondent police would submit that there are designated places, where such agitation could be held. The place/venue where the petitioner wanted to conduct the agitation is a congested place which could accommodate at the maximum a total capacity of three hundred persons. If the petitioner is permitted to conduct the agitation in the above said place, it will cause untold hardship to the general public and will result in unnecessary law and order problem.

5. The learned Additional Public Prosecutor further submitted that, ultimately, it is the police, who will have to manage the situation and prevent any untoward incident and therefore the police must be given the liberty to decide on the choice of venue and the same should not be interfered by this Court.

6. This Court carefully considered the submission made on

either side.

7. The petitioner who has approached this Court is none other than the representative of the people belonging to the Perumbur Constituency. The petitioner wants to ventilate the grievance of the people belonging to the constituency against the Government for not providing certain basic facilities to which the people are entitled. The agitation, that is planned to be conducted is only a Hunger strike on 17.11.2018, from 9.00 a.m to 5.00 p.m. It is also seen from records that the venue where the agitation is planned to be conducted is a normal venue in which the respondent police have given permission to other political parties in the past. This Court therefore finds that the first respondent was not right in rejecting the permission and the first respondent could have imposed reasonable condition while considering the application filed by the petitioner seeking for permission. Therefore, this Court has to necessarily interfere with the impugned order passed by the first respondent.

8. The impugned order passed by the first respondent dated 05.11.2018 is hereby quashed. The petitioner is directed to give a fresh representation to the second respondent by specifically mentioning the venue and also the date and time for conducting the Hunger strike. The petitioner must also give an undertaking that the Hunger strike will be conducted in a peaceful manner without giving rise to any law and order problem and the same will be attended only by three hundred persons belonging to the party. The petitioner shall further undertake that he will comply with any reasonable conditions that may be imposed by the second respondent while granting permission to conduct the Hunger strike. On receipt of the representation, the second respondent is directed to grant permission to the petitioner to organise and conduct Hunger strike on 17.11.2018 between 9.00 a.m and 5.00 p.m at Dr.Ambedkar College Service Road (SBI Bank Road). It is open to the second respondent to impose any reasonable conditions and the petitioner is bound to comply with the same. In view of the peculiarity of the locality in which the agitation is planned to be held, it is made clear that the petitioner will confine the total crowd to be involved in the Hunger strike, to three hundred persons.

9. Accordingly, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

To

1. The Commissioner of Police,
Office of the Commissioner of Police,
Greater Chennai,
Vepery, Chennai.
2. The Inspector of Police,
P-5, MKB Nagar Police Station,
MKB Nagar,
Chennai.

+2 CCS to MR.N. Raja Senthoo Pandian, Advocate sr 77746.

W.P.No. 29860 of 2018

SP(15/11/2018)