



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No. 12920 of 2018

K.S.Arjunan
District Secretary,
Communist Party of India (Marxist),
No.16, Masilamanipuram 3rd Street,
Thoothukudi,
Thoothukudi District.

... Petitioner

vs.

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

2. The Deputy Superintendent of Police,
Thoothukudi Town, Thoothukudi.

3. The Inspector of Police,
South Police Station,
Thoothukudi,
Thoothukudi District.

4. The Inspector of Police,
Central Police Station,
Thoothukudi,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent pertaining to his proceedings in Se.Mu.Aa.No.220/Mukam/U.Ka.A(Nagaram) Thoodi/18, dated 14.06.2018, and quash the same and consequently, direct the respondents herein to accord permission for the petitioner and his party to hold procession starting from Pandukarai Road, Anna Nagar, Thoothukudi, followed by a public meeting at Chidambaranagar bus stop on 18.06.2018 from 05.00 p.m., to 10.00 p.m.

For Petitioner : Mr.L.Shaji Chellan

For Respondents : Mr.D.Muruganantham

Additional Government Pleader

**ORDER**

The petitioner is the District Secretary of Communist Party of India (Marxist). The petitioner had given an application dated 08.06.2018, to the third respondent, seeking permission to conduct a rally and a public meeting on 18.06.2018.

2. According to the petitioner, human rights violations had taken place on 22.05.2018, in the wake of police firing. Therefore, to condemn the said human rights violations and also the police firing, the petitioner Party want to hold a rally and a public meeting. This request has been negatived by the second respondent by the impugned order dated 14.06.2018. The same is under challenge.

3. Heard the learned Counsel for the petitioner and also the learned Additional Government Pleader, who takes notice for the respondents.

4. The foremost objection raised by the respondents is that on 22.05.2018, an untoward event of an extraordinary nature had taken place leading to loss of precious lives and that on account of the steps taken by the police and the District Administration, the situation is fast returning to normalcy. He would therefore, submit that if the proposed event is allowed to be conducted, that will certainly interfere with the normalisation process. He also referred to the earlier decisions rendered by this Court and contended that the respondents are the best persons to assess the ground reality. In their view, permitting the proposed event to be conducted will not be conducive for maintenance of public order. He therefore, wanted this Court to sustain the order impugned in this writ petition.

5. The learned Additional Government Pleader appearing for the respondents also pointed out that similar requests made by the other Parties were rejected with an understanding that they can hold their meetings next month and that those Parties graciously accepted the decision of the police.

6. The learned Counsel for the petitioner, on the other hand, submitted that the concerns set out in the impugned order can very well be taken care and addressed if the petitioner is permitted to give up their demand for holding a rally and confining the request for conducting public meeting alone. He also submitted that the ground in which the meeting is to be held is a regular place where the political parties hold their meetings and it is little away from the main town though, it falls within the town limit. It is a spacious ground and it can very easily accommodate two thousand members. The petitioner contended that they will not assemble more than one thousand members. He also submitted that the



meeting will be addressed only by two persons namely, Ms.U.Vasuki and Ms.Brinda Karat. He also pointed out that both have been in public life for long number of years and they are known to be responsible speakers.

7. The learned Counsel for the petitioner, on behalf of the Party, gave an undertaking that no speeches that will be made on the occasion by the two dignitaries will fall foul of law. He also undertook that in connection with the meeting, there will not be any act of violence perpetrated by their members. The undertaking given by the petitioner's counsel is placed on record.

8. Having considered the rival submissions, this Court is of the view that the petitioner can very well be permitted to conduct the said meeting. It is a democratic right to assemble peaceably and without arms. Freedom of speech and expression is a guaranteed fundamental right. One key feature of democracy is that it enables the carrying on of conversation between the people on the one hand and the Government on the other. Parties in opposition are invariably the key vehicles of communication in this process. The petitioner is a recognised National Party. One cannot dispute that a grave incident took place on 22.05.2018. As many as 13 lives were lost. Therefore, the petitioner as a recognised political Party, is definitely entitled to conduct a meeting condemning the incident in question. Democracy is also about giving vent to one's opinions. At the same time, this Court cannot lose sight of the fact that this right is subject to limitations and restrictions. That is why, the learned Counsel for the petitioner in all fairness, had given up the demand for holding a public rally. A meeting that is to be attended by one thousand members and to be addressed by well known and responsible leaders will certainly be a step in the process of healing the wounds caused by the incident. This Court would like to invoke the principle of command responsibility. This principle is being invoked in customary international law. The petitioner is the organiser of the meeting in question. If something untoward happens, certainly, the petitioner cannot evade the consequences. Before this Court, a solemn undertaking has been given by the learned Counsel for the petitioner that the meeting will be properly organised and that the number of the participants will not exceed one thousand and that the speakers will not speak in a manner that would incite or exacerbate the situation. If this undertaking is breached, this Court would certainly invoke the principle of "organiser's responsibility" and take appropriate action. The meeting is to be conducted in the evening on 18.06.2018. Permission is granted in the following terms:

- i. The meeting will be conducted in the vacant land near the Chidambaranagar bus stop.

<https://hcservices.ecourts.gov.in/hcservices/>

- ii. It will be addressed exactly by two persons namely, Ms.U.Vasuki and Ms.Brinda Karat.



- iii. The number of participants will not exceed one thousand.
- iv. The speakers will speak in a manner that will fall within the four corners of law.
- v. The entire event will be videographed by the police.
- vi. The members assembling for the meeting will conduct themselves in a manner that is entirely consistent with law.
- vii. The petitioner, namely, Thiru.K.S.Arjunan, District Secretary of the Party, will formally welcome the gathering and also render vote of thanks.
- viii. The meeting will commence at 06.00 p.m. and conclude at 08.00 p.m., on 18.06.2018.
- ix. The Party organisers as well as the members / participants shall extend their fullest cooperation with the police to regulate the meeting.

9. In the result, this Writ Petition is allowed, in the aforesaid terms. No costs.

10. To report compliance that the meeting was conducted in terms of the aforesaid directions, post the matter on 19.06.2018, at 10.30 a.m.

Sd/-

Assistant Registrar (AD-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Thoothukudi,
Thoothukudi District.
2. The Deputy Superintendent of Police,
Thoothukudi Town,
Thoothukudi.
3. The Inspector of Police,
South Police Station,
Thoothukudi,
Thoothukudi District.
4. The Inspector of Police,
Central Police Station,
Thoothukudi, Thoothukudi District.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 10553
+ 2 CC TO Mr.L.SHAJI CHELLAN, ADVOCATE IN SR No. 10552

RSB/MR

<https://hcservices.ecourts.gov.in/hcservices/>
TE/RSR/SAR-2 : 16/06/2018 : 4P/8C

W.P(MD)No. 12920 of 2018
16.06.2018