



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2018

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THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

W.P.(MD) No.1385 of 2018andW.M.P(MD).No.1466 of 2018

M.Sankara Kumar

...Petitioner

-Vs-

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

2.The Inspector of Police,
Panagudi Police Station,
Tirunelveli District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the order passed by the second respondent which is dated 19.01.2018 and quash the same in so far as it restricts the time limit of conducting celebration up to 10.00 pm., and consequently direct the second respondent to extend time limit of holding our festival till 03.00 am., on 28.01.2018 in connection with the temple celebration of Arulmigu Sri Ramalingam Swamy Udanurai Sri Sivagami Ammal, Sri Nambi Singa Perumal Thirukovil, Panagudi, Tirunelveli District as per our schedule.

For Petitioner :Mr.R.Anand

For Respondents :Mr.V.Anand
Government Advocate

ORDER

This writ petition has been filed to quash the impugned order passed by the second respondent dated 19.01.2018 in so far as the restriction of time limit of conducting Innisai Katcheri and cultural programme upto 10.00 pm., on 27.01.2018 and consequently to direct the second respondent to extend the time limit for celebrating the temple festival upto 03.00 am., on 28.01.2018 as per the petitioner's festival schedule in connection with the temple festival of "Arul Mighu Ramalingasamy Udanurai Sivagamiammal Sri Nambi Singaperumal Thirukovil" at Panagudi, Tirunelveli District.



2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The learned counsel appearing for the petitioner has submitted that the Executive Officer of the Hindu Religious and Charitable Endowments Department has passed an order granting permission to Saiva Velalar community people to celebrate the function in the said temple on 27.01.2018 and on behalf of the said community, the petitioner has submitted a representation before the second respondent and he further submitted that the second respondent, citing the judgment of the Honourable Supreme Court of India reported in Church of God (Full Gospel) in India Vs K.K.R. Magestic Colony Welfare Association and Others, [(2000) 7 SCC 282] and also Rule 5 of Noise Pollution (Regulation and Control), Rules, 2000, granted permission to the petitioner to complete all the programmes before 10.00 p.m. He further submitted that this Court has already granted permission in W.P.(MD).No.1009 of 2018, dated 19.01.2018, for celebrating the function even beyond 10.00 p.m on 22.01.2018 for another person namely A.Sundaram and hence, the same kind of order may be passed in this petition also.

4. The learned Government Advocate has submitted that after passing of the order by this Court in W.P.(MD).No.1009 of 2018, dated 19.01.2018, it was brought to the knowledge of the second respondent that the Honourable Supreme Court of India in Church of God (Full Gospel) in India Vs K.K.R. Magestic Colony Welfare Association and Others (supra), has held that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00 a.m and hence, the aforesaid impugned order has been passed.

5. The Honourable Supreme Court of India in Church of God (Full Gospel) in India Vs K.K.R. Magestic Colony Welfare Association and Others (supra) has held that rules prescribing reasonable restrictions including the Rules for the use of loud speakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced. The aforesaid decision was not brought to the knowledge of this court while passing order in W.P.(MD). No.1009 of 2018. Hence, the petitioner cannot rely upon the order passed in W.P.(MD).No.1009 of 2018.

6. Since in the aforesaid decision, the Honourable Supreme Court has directed the authorities to enforce Noise Pollution (Regulation and Control) Rules, 2000, it is relevant to refer Rule 5 of the said Rules, which reads thus:-

"5. Restrictions on the use of loudspeakers/public address system:- (1) A loudspeaker or a public address system shall not be used except after obtaining written permission from the authority.

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

(2) A loudspeaker or a public address system shall not be used at night (between 10.00 p.m to 06.00



a.m) except in closed premises for communication within, e.g. Auditoria, conference rooms, community halls and banquet halls."

7. From the reading of the aforesaid provision, it is clear that a loud speaker or a public address system shall not be used without getting written permission from the authority. It is also clear that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00 a.m except in closed premises for communication within, e.g. auditoria, conference rooms, community halls and banquet halls. But the second respondent has totally banned the programmes after 10.00 p.m without giving an opportunity to the petitioner to find a place (closed premises) to conduct the Innisai Kacheri after 10.00 p.m. Hence, the impugned order passed by the second respondent, dated 19.01.2018 is quashed. Therefore, if the petitioner wants to conduct the Innisai Kacheri by using a loud speaker or a public address system in an open place, he has to finish the said programme before 10.00 p.m or if he wants to extend the said programme beyond 10.00 p.m, then, he can conduct the said programme in the closed premises, after getting necessary permission from the second respondent.

8. However, in this case, considering the paucity of time, the petitioner is directed to choose the place (closed premises) for conducting the Innisai Kacheri on 27.01.2018 beyond 10.00 p.m and inform the same to the second respondent before 05.00 p.m on 27.01.2018 and thereafter, he can conduct the programme. The second respondent has to give proper protection for the said programme.

9. With the aforesaid observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police, Tirunelveli District, Tirunelveli.
2. The Inspector of Police, Panagudi Police Station, Tirunelveli District.

+1CC to Mr.R.Anand, Advocate, SR.No. 44294

+1CC to the Special Government Pleader SR.No.44356

W.P. (MD) No.1385 of 2018

and

W.M.P (MD) .No.1466 of 2018

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