



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2018

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.(MD)No.9114 of 2018

and

W.M.P.(MD)Nos.8493 & 8494 of 2018

P.M.Tamil Mandhan

... Petitioner

Vs.

1.The Superintendent of Police,
Office of the Superintendent of Police,
Tuticorin District,
Tuticorin.

2.The Deputy Superintendent of Police,
Brayant Nagar,
Tuticorin.

3.The Inspector of Police,
South Police Station,
Tuticorin.

4.The Sub-Inspector of Police,
South Police Station,
Tuticorin.

... Respondents

Prayer: Petition filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus calling for the records in connection with the impugned order passed by the fourth respondent vide his proceedings Ref.No.C.No./South PS/TUT/18 dated 20.04.2018 and quash the same and consequently directing the respondents to grant permission to the petitioners association to conduct fasting by laying temporary pandhal on 27th to 30th of April 2018 as a token of protest against the Sterlite Industry.

For Petitioner : Mr.Niranjana S.Kumar

For Respondents : Mr.A.K.Baskara Pandian,
Special Government Pleader
Assisted by Mr.M.Karuppasamy,
Government Advocate

ORDER

This writ petition has been filed seeking a Writ of Certiorarified Mandamus to quash the impugned order passed by the fourth respondent vide proceedings Ref.No.C.No./South PS/TUT/18



dated 20.04.2018 and to direct the respondents to grant permission to observe fasting by laying temporary pandhal from 27.04.2018 to 30.04.2018 as a token of protest against the Sterlite Industry.

2. According to the petitioner, the petitioner has made an application to respondents 1 to 3, seeking permission to observe fasting from 27.04.2018 to 30.04.2018, at V.V.D.Signal, Chidambara Nagar Bus Stop. However, the fourth respondent herein, as well as the Assistant Superintendent of Police, Tuticorin, has rejected the application of the petitioner, stating that there is a prohibitory order under Section 30(ii) of the Police Acts.

3. The learned Counsel for the petitioner would submit that there is a catena of decisions passed by this Court following the decision of the Hon'ble Supreme Court that the authorities should not deny permission to observe fasting and to hold public meetings to express the views of the citizens guaranteed under Article 19(2) of the Constitution of India. Therefore, the rejection order passed by the respondents is illegal and in violation of principles of natural justice.

4. The learned Counsel for the petitioner would also submit that in the aforesaid place, so many meetings have already been conducted by various organizations and political parties, with the permission of the authorities and therefore, the respondents ought not to have rejected his claim alone. Hence, the impugned order is liable to be quashed.

5. The learned Special Government Pleader appearing for the respondents would strongly contend that the request of the petitioner for observing fasting from 27.04.2018 to 30.04.2018, for more than 72 hours, cannot be, as such, granted by the respondents, since there is a possibility of law and order problem in the said area. Further, in this regard, so many agitations and protests have already been organized by various organizations and political parties in and around the said area. Moreover, the petitioner is not an organization or a political party, but, they are individuals joined together seeking permission in the aforesaid place to observe fasting.

6. Therefore, it has been strongly objected that the petitioner has no locus standi to seek permission for observing fasting in the aforesaid place. It is the respondents who have to regulate the meetings, fasting and Dharnas by putting up restrictions and this Court has also, in several cases held that the respondent has to regulate the fasting, meetings and processions. Therefore, the contentions of the petitioner are totally baseless and without any justification. If the petitioner is allowed to conduct the fasting for more than 72 hours, it will be difficult to maintain law and order, if any untoward incident happens during the said period. Therefore, the order passed by the fourth respondent is perfectly valid.



7. The learned Special Government Pleader would however submit that the respondents are not disputing the fact that they have not denied permission for other organizations or political parties to conduct meetings / protests. He would further fairly submit that if the petitioner reduces the duration and approaches the authority concerned, with the details of the participants, for observing fasting, the authority concerned shall reasonably consider the same, in accordance with the provisions of law.

8. Heard the learned Counsel appearing on either side and perused the documents placed on record.

9. It is seen that the petitioner has sought for permission to observe fasting in the aforesaid place from 27.04.2018 to 30.04.2018, i.e., for more than 72 hours, as rightly pointed out by the learned Special Government Pleader. Moreover, several agitations as well as meetings are already going on in the said place for the same cause. So, in the present situation, if protests for such long duration are permitted, there is every likelihood of law and order problem, which will affect the peace and public tranquility in the said locality.

10. However, considering the submissions made by the learned Special Government Pleader, this Court is of the view that permission to conduct the fasting shall be liberally considered by the respondents, if the petitioner reduces the duration. Even if permission is granted by the respondents, this Court is of the view that the petitioner is not having any locus standi to make an application on behalf of the other participants. The reason is that whatever the condition imposed by the authorities, the same shall not bind the persons who have not made an application before the authority concerned.

11. At this juncture, the learned Counsel appearing for the petitioner conceded that the participants, who are likely to participate in the protest, along with the petitioner, shall be permitted to make an application, individually, before the authority concerned, for observing fasting in the aforesaid place.

12. In such a view of the matter, this Court is inclined to interfere with the order passed by the fourth respondent.

13. In result, the impugned order passed by the fourth respondent is quashed. The petitioner is at liberty to make a fresh application before the Assistant Superintendent of Police, Tuticorin, along with other participants, individually, on or before 28.04.2018, by changing the date and reducing the duration and if any such application is received, the Assistant Superintendent of Police, Tuticorin, shall consider the same in the light of the foregoing discussions and pass appropriate orders on or before 29.04.2018. It is made clear that it is open to the authorities to fix a reasonable duration to observe the fasting and also to impose



reasonable restrictions, if they are granting permission.

14. With the above directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1.The Superintendent of Police,
Office of the Superintendent of Police,
Tuticorin District,
Tuticorin.

2.The Deputy Superintendent of Police,
Brayant Nagar,
Tuticorin.

3.The Inspector of Police,
South Police Station,
Tuticorin.

4.The Sub-Inspector of Police,
South Police Station,
Tuticorin.

5.The Assistant Superintendent of Police,
Tuticorin.

+1CC to Mr.Niranjan S.Kumar, Advocate, SR.No. 63782

+1CC to the Special Government Pleader SR.No.64122

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gk

AM/SV MMS/SAR 4/28.04.2018/4P/8C