



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P. (MD) No.11190 of 2018

and

W.M.P. (MD) Nos.10218 and 10219 of 2018

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Vedanta Limited,
Unit: Sterlite Copper,
Represented by its Authorized Signatory,
SIPCOT Industrial Complex,
Madurai Bypass Road,
Thoothukudi District,
Tamil Nadu-628 002.

... Petitioner

Vs.

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

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents herein to consider the representations dated 09.04.2018 and 16.04.2018 and pass appropriate orders to declare the area to the radius upto one kilometer from the periphery around the petitioner's factory premises (Copper Smelter Complex and Thermal Power Plant) and residential quarters premises (Thamira-I and Thamira-II) and warehouse as "Protest Free Zone"/"No Protest Zone" within a time stipulated by this Court.

For Petitioner : Mr.J.Subramanian
Senior Counsel
Assisted by K.P.Anantha Krishnan

For Respondents : Mr.M.Murugan
Government Advocate

O R D E R

Pursuant to the distribution of pamphlets and messages in the social media by a faction claiming as "Makkal Athikaram" calling for protest on 22.05.2018 for closure of the petitioner's factory, the petitioner herein had given representations to the respondents herein on 09.04.2018 and 16.04.2018 seeking for invoking the provision under Section 144 of Cr.P.C. Since the representations has not been considered till date, the present Writ petition has been filed.



2.The learned Senior Counsel relying upon the pamphlets and various cases filed against the persons for indulging in unlawful assembly and other crimes affecting the petitioner's business, he submitted that this is a fit case, where the first respondent ought to have invoked Section 144 Cr.P.C., particularly, in the light of the proposed protest on 22.05.2018.

3.The learned Additional Government Pleader on instructions submitted that as on date, none of the section of the public have approached the police seeking for permission of any protest and that if there is any illegal protest, the stringent action would be taken against such violators in order to safeguard the general public. According to the learned Additional Government Pleader, they have so far registered 38 cases against violators, in which 21 persons have already been arrested and remanded.

4.It is needless to point out that the freedom of expression and speech is subject to reasonable subordination of social interest and preservation of public order and rule of law would be the primary consideration in cases of an illegal protest or an unlawful assembly. In the instant case, the second respondent police have not till date granted any permission for the protest. It is not in dispute that the pamphlets calling upon the general public to protest on 22.05.2018 for closing the factory, has been widely circulated. The wordings in the pamphlets also indicate that the protestors do not have any intention to conduct a peaceful protest.

5.On a overall reading of the pamphlets as well as taking into consideration of the various disturbances and untoward incidents happening in an around the petitioner factory, the proposed protest is likely to trigger a law and order situation and in this scenario invoking Section 144 of Cr.P.C would be highly recommended in public interest. This recommendation is being consciously made in view of the earlier antecedents where several cases have been registered against violators and the present pamphlet also indicates the possibility of an unlawful assembly and an illegal protest.

6.Nevertheless, this Court is also conscious of the fact that such a decision is within the scope and ambit of the first respondent herein. However, when a representation has already been made to the first respondent seeking for invoking Section 144 Cr.P.C, such a representation cannot be kept pending indefinitely, particularly, when there are sufficient materials to show that there is a possibility of a protest on 22.05.2018. Non consideration of the representation would amount to a dereliction of the ordinary duties of the first respondent and in such circumstances, this Court would be justified in invoking its powers under Article 226 of the Constitution of India and direct the first respondent to consider the representation.



7. Under these circumstances and in the light of the above observations, there shall be a direction to the first respondent to consider the petitioner's representation dated 09.04.2018 and the subsequent reminder dated 16.04.2018, on its own merits with due consideration of the observation made in this order and pass appropriate orders on or before 21.05.2018.

8. The Writ petition stands ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Vacation Officer

/True Copy/

Sub Assistant Registrar

To

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

+1CC to MR.V.Meenakshisundaram, Advocate in SR.No.65951.

RMI/TM

DS/SV/MMS/SAR-1 :18.05.2018: 3P/4C

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