



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2018

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.18473 of 2018

and

W.M.P. (MD) No.16371 of 2018

Muruganantham

... Petitioner

Vs.

1. The Chief Secretary of Tamilnadu,
Fort St.George, Chennai.

2. The Inspector General of Police,
South Zone, Madurai.

3. The District Collector,
Collectorate, Ramanathapuram,
Ramanathapuram District.

4. The Superintendent of Police,
Ramanathapuram District, Ramanathapuram.

5. The Inspector of Police,
Emaneshwaram Police Station,
Paramakudi, Ramanathapuram District.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings dated 14.08.2018 issued by the fifth respondent, quash the same and consequently to impose reasonable conditions without affording peaceful celebration and to make Honour to respectful Immanuvelsekaran Gurupooja as held on 11.09.2018.

For Petitioner : Mr.P.Vijendran
for Mr.D.Anbarasu

For Respondents : Mr.Chellapandian
Additional Advocate General
Assisted by Mr.B.Bhagawathi
Government Advocate

ORDER

This Writ Petition has been filed challenging the restrictions that have been imposed by impugned proceedings of the fifth respondent, dated 14.08.2018 and for a direction to the respondents to impose reasonable conditions in order to enable the petitioner and other community people to pay homage to Immanuvelsekaran Gurupooja, to be held on 11.09.2018.



2. Heard the learned Counsel appearing for the petitioner and the learned Government Advocate appearing for the respondent.

3. The learned counsel for the petitioner would submit that the fifth respondent in his proceedings dated 14.08.2018 has imposed certain restrictions, which are totally arbitrary. The learned counsel would invite the attention of this Court, to Clause (1), (2), (5), (12), (17), (23), (24) and (25) and submits that the proceedings are totally arbitrary and has been made only with a view to prevent the people belonging to the particular community from attending the festival.

4. Per contra, the learned Additional Advocate General Mr. Chellapandian, would submit that the proceedings of the fifth respondent is not really an order, but, is a result of a meeting that was conducted on 14.08.2018. The learned Additional Advocate General would further submit that these restrictions were imposed on an earlier occasion to the other community and the same became subject matter of challenge before the Division Bench of this Court. The Division Bench by an order dated 26.10.2017 had upheld the restrictions that were imposed, which are akin to the present restrictions, that have been pointed out by the learned counsel for the petitioner.

5. This Court has carefully considered the submission on either side.

6. The Division Bench of this Court had an opportunity to consider the restrictions in detail. Similar restrictions were imposed during Pasumpon Muthuramalinga Thevar Gurupooja, during the year 2017.

7. It will be useful to extract the relevant para, which imposed the restrictions.

"The impugned order dated 08th September 2017 issued by the District Collector and District Magistrate, Ramanathapuram District at paragraph No.8 reads, inter alia, as follows:-

"8. Now, therefore, with a view to maintain law and order, and to avoid disturbance to the public tranquility, I do hereby, promulgate orders under section 144 Cr. P.C., prohibiting any public meeting or assembly of five or more persons or procession, except with the prior permission of the undersigned, for a period of two months from 9th September 2017, and also prohibiting from 9th September to 15th September and 25th October to 31st October 2017, the entry from other Districts of all types of hired vehicles (Tourist Motor Cabs, Tourist Maxi Cabs, All India Tourist Motor Cabs, All India Tourist Maxi Cabs and Omini Buses and any other Tourist vehicles including stage carriages with temporary or special permits or goods carriers and tractors as well as two wheelers and



Autorickshaws) carrying volunteers intending to participate in the birth / death anniversaries of various leaders including Immanuel Sekaran death anniversary and Thevar Gurupooja going to be observed in Ramanathapuram District. Carrying jothi (torch) is also prohibited except from within one kilometre of the venue and with prior permission of the undersigned during these events." "

8.The Division Bench of this Court after considering the issue in detail has held as follows:

"7.Right to freedom of conscience and to worship is undoubtedly a fundamental right, a right which is non-negotiable and has to be respected at all costs. However, freedom of conscience and free profession, practice and propagation of religion guaranteed under Article 25 of the Constitution of India is subject to public order, morality and health and subject to the other provisions of Part III of the Constitution, which includes rights of the people in general under Article 21 of the Constitution to life and personal safety.

8.In our considered view, the rights guaranteed under Article 25 of the Constitution of India does not include the right to travel to any particular religious place by any specific mode of transport. The sacred right guaranteed under Article 25 of the Constitution of India does not stand in the way of restrictions to maintain law and order and public tranquility and/or to prevent communal disturbances.

9.It appears that restrictions of the kind now under challenge are being imposed from the year 2013 onwards in view of the gruesome untoward incidents which took place during Gurupooja held in the year 2012 and earlier. In fact, restrictions similar to those imposed in respect of Ramanathapuram District and also in respect of other Districts where similar poojas are conducted by persons belonging to rival groups were challenged in this Court. This Court has, by its orders dated 10.09.2013 (in W.P.(MD) Nos.13607 of 2013, etc.), 20.10.2014 (in W.P.(MD) No.27806 of 2014) and 28.10.2014 (in W.P.(MD) No.17095 and 16855 of 2014) upheld the restrictions. "

9.The findings of the Division Bench makes it clear that the restrictions have been upheld not only by the Division Bench, but also by an earlier orders passed by this Court from 2013 onwards. Therefore, this Court cannot once again revisit the very same issue and this Court is bound by the findings of the Division Bench.

10.It is also relevant to extract para-13 of the Division Bench order is as follows:



13.The report reveals that the State Transport Corporation has agreed to provide 100 buses from each neighbouring district exclusively to the memorial place on 29.10.2017 and 30.10.2017. The members of the Thevar Community and others would have the option to avail these buses. We also direct the State Government to make arrangements for special buses/tempo travellers from the point at which the restrictions commence i.e. the border of the district and/or from the National Highway to Pasumpon. The police authorities shall make adequate security arrangements for smooth entry and exit from the memorial place during the gurupooja days. "

11.The learned counsel for the petitioner would submit that the very same facilities that were provided by the State Transport Corporation for the Gurupooja that was held during the year 2017, can be extended to the petitioner and to various communities, which are going to perform the Immanuvelsekeran Gurupooja, on 11.09.2018.

12.The learned Additional Advocate General would fairly submit that the very same facilities will be provided to all those, who come to attend the Pooja from the place, where the restriction of the entry of vehicles has been made. The submission of the learned Additional Advocate General is recorded.

13.This Writ Petition is disposed of with a direction to the respondents to provide bus facilities to all those who come to attend the Gurupooja, from the place where the restriction has been imposed for the entry of vehicles. The police authorities shall make adequate security arrangements for smooth entry and exit from the Memorial place during the Immanuvelsekeran Gurupooja. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petition is also closed.

Sd/-

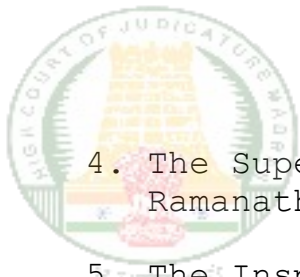
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Chief Secretary to Government of Tamilnadu,
Fort St.George, Chennai.
2. The Inspector General of Police, South Zone, Madurai.
3. The District Collector,
Ramanathapuram,
Ramanathapuram District.



4. The Superintendent of Police,
Ramanathapuram District, Ramanathapuram.

5. The Inspector of Police,
Emaneshwaram Police Station,
Paramakudi, Ramanathapuram District.

+1CC to Mr.D.Anbarasu, Advocate, SR.No. 81210

W.P. (MD) No.18473 of 2018 and
W.M.P. (MD) No.16371 of 2018
24.08.2018

LS
ES/SKN/SAR 2/27.08.2018/5P/7C