



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.21709 of 2018

Umaiya Ramesh Kumar

... Petitioner

Vs.

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

2. The Inspector of Police,
Kamuthi Police Station,
Kamuthi Taluk,
Ramanathapuram.

... Respondents

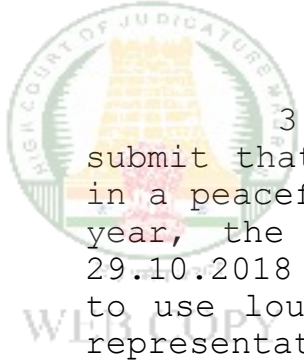
PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to allow the people of Melamudimannar Kottai Village to celebrate the "Thevar Gurupoojai" function from 29.10.2018 at about 12.00 p.m, to 30.10.2018 at 4.00 p.m, and consequently, permit to use the loudspeakers at minimum decibels based on the petitioner's representation dated 05.10.2018.

For Petitioner : Mr.S.Bharathi
For Respondents : Mrr.Chellapandian
Additional Advocate General
Assisted by Mr.B.Bhagawathi
Government Advocate

ORDER

This writ petition has been filed for a direction to the respondents to celebrate the "Thevar Gurupoojai" function from 29.10.2018 to 30.10.2018 by using loudspeakers at minimum decibel levels.

2.The learned counsel for the petitioner would submit that he is a resident of Melamudimannar Kottai Village and he is one of the members in the organizing committee of "Thevar Gurupoojai" that is celebrated in the village every year.



3.The learned counsel for the petitioner would further submit that this festival has been conducted for the last 20 years in a peaceful manner without causing any law and order problem. This year, the committee has decided to celebrate this function from 29.10.2018 to 30.10.2018 and for that purpose, the petitioner wanted to use loudspeakers at minimum decibel levels. In this regard, a representation was also given to the respondent police seeking for permission to use the loudspeakers. Since the said representation has not been considered, the present writ petition has been filed.

4.Mr.K.Chellapandian, learned Additional Advocate General, representing Mr.B.Bhagawathi, learned Government Advocate for the respondents would submit that there were violent incidents in the past which took place in certain parts of Tamil Nadu during Guru Poojai celebration and therefore, in order to ensure the peaceful conduct of the poojai, a committee was constituted. The said committee has formulated detailed guidelines for the purpose of conducting Guru Poojai.

5.The learned Additional Advocate General brought to the notice of this Court, the proceedings of the District Collector, Ramanathapuram, dated 09.10.2018, wherein, the officials belonging to the various Departments and also the persons belonging to the various communities have also participated. In the said proceedings, the learned Additional Advocate General pointed out clause 29. In the said clause, it has been made very clear that whenever this Guru poojai is celebrated, the same has to be done without making use of any loudspeakers.

6.According to the learned Additional Advocate General, this has been implemented across the board without any exception. This has been done only to ensure that the festival is conducted in a peaceful manner without giving rise to any law and order problem.

7.The learned Additional Advocate General also brought to the notice of this Court the earlier order passed by this Court in W.P.(MD)No.18473 of 2018, wherein, this Court had an occasion to consider the very same proceedings of the District Collector, dated 09.10.2018. The learned Additional Advocate General specifically pointed out the findings of this Court, which are extracted here under:-

"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 order 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."

8. In view of the above, this Court cannot give any directions contrary to the recommendations made by the committee in its proceedings, dated 09.10.2018. If one exception is created, it would amount to opening of floodgates. Ultimately, the respondent police will have to maintain the law and order situation and therefore, the conditions that have been imposed in the proceedings dated 09.10.2018 have to be followed in letter and spirit.

9. In view of the above, the relief sought for by the petitioner cannot be granted by this Court and accordingly, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AS)

/True Copy/



To

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

2. The Inspector of Police,
Kamuthi Police Station,
Kamuthi Taluk,
Ramanathapuram.

+ 1 CC TO Mr.S.BHARATHI, ADVOCATE IN SR No. 92142

RMI

TE/PM/SAR-4 : 19/11/2018 : 4P/4C

W.P. (MD) No.21709 of 2018
25.10.2018