



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.(MD) No.13267 of 2018

and

W.M.P.(MD)No.12095 of 2018

N.Latha

... Petitioner

Vs.

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

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

... Respondents

Writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent dated 19.06.2018 and quash the same as illegal and consequently direct the respondents to grant permission to use the loudspeakers on 22.06.2018 from 10 p.m., to 3 a.m., for conducting Ani temple festival with cultural programmes in Arulmigu Othapanai Sudalaimadasamy Temple, North Vijayanarayanam Village, Nanguneri Taluk, Tirunelveli District.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.M.Karuppasamy
Government Advocate

O R D E R

This Writ Petition has been filed to call for the records pertaining to the impugned order passed by the second respondent, dated 19.06.2018 and quash the same as illegal and consequently to direct the respondents to grant permission to use loudspeakers on 22.06.2018 from 10.00 p.m., to 03.00 a.m., for conducting Ani temple festival cultural programmes in Arulmigu Othapanai Sudalaimadasamy Temple, North Vijayanarayanam Village, Nanguneri Taluk, Tirunelveli District.



3. According to the petitioner, the petitioner has made a representation to the respondent police on 09.06.2018 seeking permission to use loudspeakers in Ani temple festival cultural programmes on 22.06.2018 from 10.00 p.m., to 03.00 a.m.,. The respondent rejected the said application by the impugned order dated 19.06.2018 stating that in view of the order passed by the this Court permission can not be granted to use loudspeakers in public beyond 10.00 p.m.,. Challenging the same, the petitioner is before this Court with the aforesaid prayer.

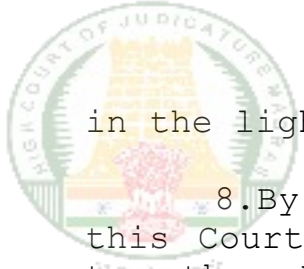
4. The learned counsel for the petitioner submitted that the Inspector of Police, Vijayanarayanam Police Station, passed the impugned order without providing any opportunity to the petitioner.

5. The Hon'ble Supreme Court, in the case of **Church of God (Full Gospel) in India vas. K.K.R. Majestic Colony Welfare Association and others reported in (2000) 7 SCC 282**, has held that 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. Pursuant this judgment, the Government of India has issued a notification dated 10.08.2017, substituting sub rule (3) of Rule 5 of the Environment Protection Rules, 1986, which reads thus:-

"(3) Notwithstanding anything contained in sub-rule (2), the State Government may subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loudspeakers or public address systems and the like during night hours (between 10.00 p.m., to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calender year and the concerned State Government or District Authority in respect of its jurisdiction as authorised by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative."

6. In the light of the aforesaid notification, the petitioner has requested this Court to make a fresh representation to the respondents seeking permission to conduct the festival on 22.06.2018.

7. The learned Government Advocate would submit that while making representation, the petitioner has annexed with a letter of **one Ganesan**, wherein the time to conduct cultural programme is mentioned as 01.00 p.m., to 03.00 a.m.,. Hence, it was rejected



in the light of the earlier orders passed by this Court.

8. By considering the said submissions made on either side, this Court directs the petitioner to make a fresh representation to the Deputy Superintendant of Police, Nanguneri Taluk, Tirunelveli District today (i.e., 21.06.2018) itself. On receipt of such representation, the Deputy Superintendant of Police, Nanguneri Taluk, Tirunelveli District is directed to consider the same and pass orders on merits and in accordance with law, by taking note of the above said notification.

9. With the above direction, this Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Superintendent of Police,
Tirunelveli,
Tirunelvlei District.
2. The Inspector of Police,
Vijayanarayanam Police Station,
Tirunelveli District.
3. The Deputy Superintendant of Police,
Nanguneri Taluk, Tirunelveli District

+1cc to Mr.R.J.Karthick, Advocate Sr.No.69264

Ta

MK/SB/SAR 4/22.06.2018/3P/5C

W.P.(MD) No.13267 of 2018
21.06.2018