

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 20.08.2018

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THE HONOURABLE MR.JUSTICE V.PARTHIBANW.P. (MD) No.15087 of 2018andW.M.P (MD) .Nos.13665 and 13666 of 2018

Sonai Meenal Arts and Science College,
Rep by its Correspondent,
B.Renganathan
S/o So.Balakrishnan,
Vennirvoikkal Post,
Muthukulathur Taluk,
Ramanathapuram District.

: Petitioner

Vs.

1.The District Collector,
O/o.The District Collectorate,
Ramanathapuram District,
Ramanathapuram.

2.The Block Development Officer,
Muthukulathur,
Ramanathapuram District.

3.The Inspector of Police,
Muthukulathur Police Station,
Ramanathapuram District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for record pertaining to the impugned order in Na.Ka.C2/23662/2018 dated 22.06.2018 on the file of the first respondent and quash the same as illegal and consequently directing the first respondent to grant permission to unveil the statue of the petitioner's college founder as well as the former Leader of Opposition Party in Tamilnadu Legislative Assembly namely So.Balakrishnan, in the petitioner's college patta land in Survey No.2/1B, situated at Vennirvoikkal Revenue group, Vilankulathur Panchayat, Muthukulathur Taluk, Ramanathapuram District within the time period stipulated by this Court.



For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Jeyakumar
Additional Government Pleader

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ORDER

The petitioner is the college represented by its correspondent. The college is run by the trust namely Sonai Meenal Education Trust. The college was started by its founder So.Balakrishnan in 1998 with an object to provide quality education to the downtrodden students, who are residing in an around Mudukulathur Town. According to the petitioner, the founder was the member of the Legislative Assembly for a number of years and also served as a Chairman of Muthukulathur Town Panchayat from 1973 to 1975. He was also the leader of opposition party in Tamil Nadu Legislative Assembly from 1996 to 2001.

2.The college, in order to confer honour on its founder, had decided to erect a statue in the college campus, which was owned by the trust in survey No.2/1B. In this regard, a representation was submitted to the first respondent on 02.03.2018 for grant of permission for erection and unveiling of the statue of its founder. A function was also organized for unveiling of the statue on 11.03.2018. While matter stood thus, on 04.03.2018, the third respondent informed the petitioner that they cannot grant permission, since the college has to take permission from the Government. Thereafter, once again the college had approached the first respondent and sought permission to unveil the statue, which had already been erected by them. Further representation was also sent on 08.03.2018. Since no action was forth coming from the first respondent, the petitioner college approached this Court in W.P(MD)No.8904 of 2018, seeking a direction to the first respondent to grant permission to unveil the statue of the founder of the college. On 18.04.2018, this Court disposed of the writ petition as under, after incorporating the relevant observation of the Division Bench of this Court:-

"5. A Division Bench of this Court had an occasion to deal with the scope of the aforesaid G.Os. The relevant portion of the order of the Division Bench of this Court in Vijayan -vs- The District Collector in W.A(MD)Nos.1079 of 2016 and 1402 of 2016 reads as follows:

"19. Having steered clear of the legal position, we have now to test the correctness of the submissions made by the official respondents. The sheet anchor of the respondents is pitched upon the two Government



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Department dated 23.11.1995 and G.O. (Ms) No. 186, Municipal Administration (M) Water Distribution (n.Ni.5) Department dated 21.09.1998. The validity, efficacy and enforceability of these Government orders were decided by this Court in the case of *P. Maniyarasan and N.E. Rajasudhan (Supra)*. One of which is a Judgment of the Division Bench, wherein it has been categorically held that the official respondents have no right to impose restrictions on the erection of statue in private properties. We are in entire agreement with the view expressed in the case of *P. Maniyarasan and N.E. Rajasudhan (Supra)*. Therefore, the arguments advanced by the learned Special Government Pleader based on the above two Government Orders does not merit consideration".

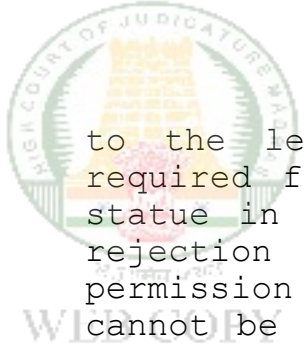
6. In view of the aforesaid observations of the Hon'ble Division Bench of this Court, the respondent may not be justified in raising such objection by quoting the aforesaid G.O.

7. In view of the above observation, there shall be direction to the first respondent herein to consider the representation dated 02.03.2018, in the light of the observation made above and pass appropriate order within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition is allowed No costs. Consequently, connected miscellaneous petition is closed."

3. In spite of the above direction of the learned single Judge and also the ruling of the Hon'ble Division Bench, no orders were passed by the first respondent. Therefore, a contempt notice was issued calling upon the first respondent to comply with the directions passed by this Court on 18.04.2018 in W.P (MD) No. 8904 of 2018. In pursuance of the contempt notice, finally the first respondent passed an order on 22.06.2018 by rejecting the claim of the petitioner on the ground that the permission was required from the Government for unveiling the statue of the founder of the petitioner college. According to the order, which is impugned in the present writ petition, the District in which the statue is located, is a communally sensitive district and if such request is acceded to, every other community would also make such a claim.

4. Mr. T. Lajapathy Roy, learned counsel appearing for the petitioner would at the outset submit that the issue raised in this writ petition is no more *res integra*, in view of the specific findings of the Hon'ble Division Bench which is incorporated in the order dated 18.04.2018 in W.P (MD) No. 8904 of 2018. According



to the learned counsel for the petitioner, no permission is required from the first respondent for erecting or unveiling a statue in a private patta land. When such is the position, the rejection of the petitioner's claim on the ground that the permission was required from the Government was untenable and cannot be countenanced in law. In fact, this Court had earlier given a specific direction to the first respondent to pass orders in the light of the observation of the Division Bench. However, unfortunately, the first respondent appears to have stuck to his position and rejected the claim of the petitioner, by ignoring the observation of the Hon'ble Division Bench. Therefore, the learned counsel for the petitioner would submit that the impugned order is liable to be set aside.

5. Upon notice, Mr. M. Jeyakumar, learned Additional Government Pleader entered appeared on behalf of the respondents and filed a counter affidavit on behalf of the first respondent.

6. According to the counter affidavit, no specific power has been granted to the District Collector to grant permission either to erect a statue in private land as well as in the Government land. In any event, a report has been obtained from the Sub-Collector along with recommendation and the same has been forwarded to the Government by their communication dated 14.08.2018. Since the proposal has been forwarded to the Government, it is upto the Government to issue necessary orders. It is further submitted by the learned Additional Government Pleader that the petitioner has not obtained plan approval from the local body concerned for erection of the statue in the specified place within the college campus. For these reasons, the learned Additional Government Pleader would submit that the petitioner is not entitled to get the relief as prayed for.

7. This Court has given its anxious consideration to the rival submissions of the counsels and perused the materials and pleadings placed on records.

8. As rightly contended by the learned counsel for the petitioner, the issue of erection and unveiling of statue in a private patta land is no more *res integra* in view of the specific ruling of the Division Bench of this Court in W.A(MD)Nos.1079 and 1402 of 2016 dated 14.06.2017. In paragraphs 19 of the order of the Hon'ble Division Bench, it is clearly held that the Government Order No.248, Rural Development Department, dated 23.11.1998 and G.O.Ms.No.186, Municipal Administration and Water Distribution Department, dated 21.09.1998, cannot be applied in case of erection of statue in private properties. When such is the position, this Court does not see how the first respondent can rely upon the said Government Order and reject the claim of the petitioner. In any event, this Court in its earlier order dated



18.04.2018 in W.P(MD)No.8409 of 2018 has directed the first respondent to pass appropriate order on the basis of the observation of the Hon'ble Division Bench order as found in paragraph 19, which is extracted supra. It appears that the first respondent has completely given a go by to the direction of this Court and held to his position that the permission of the Government was required to unveil the statue even in a private land.

9.This Court does not appreciate the said stand of the first respondent as the first respondent did not address the claim of the petitioner in proper perspective with reference to the observation of the Hon'ble Division Bench passed in W.A(MD) Nos.1079 and 1402 of 2016 dated 14.06.2017 and the subsequent direction issued by the learned single Judge of this Court to the first respondent dated 18.04.2018 in W.P(MD)No.8409 of 2018. Once this Court has held that no permission is necessary for erection of the statue or unveiling of the same in a private property, it is not open to the first respondent to insist for getting permission from the Government. On behalf of the respondents, no material has been produced to show that even in private land, the permission was mandatory for erection of the statue or unveiling of the statue of politician or founder of the college. In the absence of any such materials contrary to the stand taken by the petitioner, this Court has to necessarily come to the conclusion in favour of the petitioner.

10.For the above said reasons, this Court is of the considered view that the petitioner has made a clear case for grant of permission to unveil the statue. Therefore, the impugned order in Na.Ka.C2/23662/2018 dated 22.06.2018 on the file of the first respondent is hereby set aside and it is held that in respect of the private patta land, no permission is necessary for erecting or unveiling of any statue, in view of the decision of the Hon'ble Division Bench in W.A(MD)No.1079 and 1402 of 2016 dated 14.06.2017.

11.In the result, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS-I)



To

1. The District Collector,
O/o. The District Collectorate,
Ramanathapuram District,
Ramanathapuram.

2. The Block Development Officer,
Muthukulathur,
Ramanathapuram District.

3. The Inspector of Police,
Muthukulathur Police Station,
Ramanathapuram District.

+2 CC To MR. T. LAJAPATHI ROY, Advocate SR. NO. 79280
+1 CC TO The Special Government Pleader SR. NO. 79367

W.P. (MD) No. 15087 of 2018

and

W.M.P (MD) .Nos. 13665 and 13666 of 2018

20.08.2018

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