



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2018

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CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P. (MD)No.24873 of 2018

and W.M.P. (MD)Nos.22560 & 22561 of 2018

M.Sivakumar

: Petitioner

Vs.

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

2.The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

: Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the second respondent in his order dated nil and quash the same as it is non application of mind and consequently directing the respondents to grant permission to celebrate "Pure & Good Governance Day on the birthday of Shri Atal Bihari Vajpai and Shri Moolam Thirunal Maharaja's memorial day" on 25.12.2018 at the ground in Survey No.119-9.A.7.D., Aramannam Village, Cheruppalur post, Kanyakumari District based on the petitioner's application dated 12.12.2018.

For Petitioner

: Mr.G.K.Sundaram

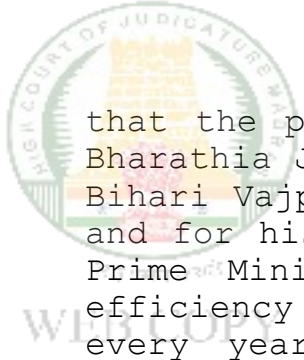
For R1 & R2

: Mr.R.Anandharaj
Additional Public Prosecutor

ORDER

This Writ Petition has been filed to quash the order passed by the second respondent dated nil and consequently direct the respondents to grant permission to celebrate "Pure & Good Governance Day on the birthday of Shri Atal Bihari Vajpai and Shri Moolam Thirunal Maharaja's memorial day" on 25.12.2018 at the ground in Survey No.119-9.A.7.D., Aramannam Village, Cheruppalur post, Kanyakumari District, based on the petitioner's application dated 12.12.2018.

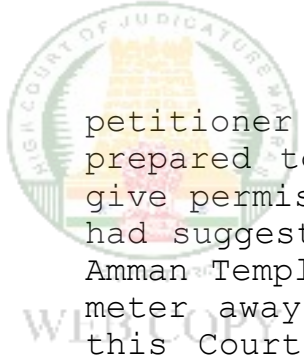
2.The learned counsel appearing for the petitioner would submit



that the petitioner is a President of Youth Wing of the Anamannam Bharathia Janatha Party and that the former Prime Minister Shri Atal Bihari Vajpay is known to every citizen of India for his simplicity and for his love towards the nation and that such a person was our Prime Minister and he was known to the entire world for his efficiency and the administration. He would further submit that every year his birthday is celebrated by the members and the followers of the Bharathia Janatha Party along with service oriented organizations throughout India. Likewise every year in Kanyakumari District in various places, his birthday is celebrated by the followers of Shri Atal Bihari Vajpay and in Aramannam area, the youth wing of the Bharathia Janatha Partu is celebrating his birthday every year by conducting Seminar, Pattimandrum and Sports events to the children along with the annathanam and that since the police is not giving permission for using sound service, the parties celebrated the above function without using the sound system.

3.The learned counsel for the petitioner would submit that the petitioner had applied for permission to the second respondent for using sound system and conducting the function on 12.12.2018. However, the second respondent without considering the importance of above function, had simply rejected the application by citing flimsy reason. He would further submit that the impugned order passed by the second respondent is in violation of constitutional rights and also violating principles of natural justice and that the petitioner's representation was rejected on the same day without proper application of mind and the impugned order is a cryptic order and also non-speaking order. He would submit that last year also permission was denied and thereafter, the petitioner approached this Court by filing W.P.(MD)No.23221 of 2017 and this Court had granted permission by an order dated 22.12.2017 and directed the respondent police to grant permission by imposing reasonable restrictions or conditions so as to maintain law and order and harmony and thereafter, the petitioner was allowed to conduct the function on the same place where the petitioner sought for permission to conduct the function and hence, he would pray that direction may be issued to the respondent police to give permission.

4.The learned Additional Public Prosecutor appearing for the respondents would submit that Aramannam is a small village and people belonging to Christianity and Hinduism are living there. He would further submit that permission had been granted to one Hindu group, namely Sapatamatharkal Temple festival to conduct programs in nearby area for three days and yet another Christian group had sought for permission to conduct Christmas program on 25th December in the village. He would submit that though last year this Court had passed an order directing the respondent to grant permission to the petitioner and permission was also granted to them. Though there was no problem last year, this year the respondent police apprehends law and order problem and thereby, the respondent police had asked the petitioner to have his meeting at an alternative location which is just 200 feet away from the venue where the

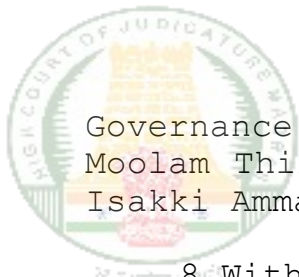


petitioner has now sought for permission and if the petitioner is prepared to shift the venue, the respondent police is prepared to give permission. He would further submit that the respondent police had suggested two alternative places, one place is Aramannam Isakki Amman Temple Area and another one is Aramannam Bazaar, which are 200 meter away from the present venue. He would further submit that this Court while passing orders in the writ petition in W.P.(MD) No.23221 of 2017 had directed the respondent police to impose reasonable restrictions or conditions so as to maintain law and order and harmony in the place and that now, the respondent police apprehending disturbance to the law and order had in order to regulate had asked the petitioner to shift the meeting to a venue which is just 200 feet away and that they have not denied granting permission to the petitioner. He would submit that the Christian group in the same village had been celebrating Christmas in a nearby venue and only in order to avoid any untoward incident the petitioner has been asked to conduct meeting at an alternative venue.

5.The learned counsel appearing for the petitioner would submit that the petitioner would like to conduct the program only in the particular place where the permission sought for and that he needs permission to conduct meeting only at the place where he had sought permission. He would further submit that the respondent police may grant permission by restricting the hours.

6.This Court while passing earlier order in W.P.(MD)No.23221 of 2017 had directed the respondent police to give permission by imposing reasonable restrictions or conditions so as to maintain law and order and harmony and the petitioner should abide by the restrictions or conditions imposed by the respondent to maintain law and order and harmony. The right of freedom of speech and expression is a fundamental right in a democratic country. The law enforcing agencies are the best judge to decide about a prevailing situation in a particular place and they have a duty to regulate and in this case of the petitioner they have only suggested the petitioner to change the venue of the meeting to alternate location that too not very far away but only 200 feet away from the place sought for by the petitioner and that they have not denied granting permission. This court is of the opinion that the claim of the petitioner to conduct the meeting in a particular place near to a place where the other groups is conducting the program does not seem reasonable and genuine. The petitioner who conducting a meeting in honour of a great leader and celebrating pure and good governance day on the birthday of the leader should carry forward the vision of the leader to maintain peace and harmony in the country rather than adamantly stick to a particular place where the other group is conducting another program which as per the respondent police would likely to result in breach of peace.

7.In view of the above, direction is issued to the respondent police to grant permission to the petitioner to celebrate Good



Governance Day on the birthday of Shri Atal Bihari Vajpai and Shri Moolam Thirunal Maharaja's memorial day" on 25.12.2018 at Aramannam Isakki Amman Temple area or Aramannam Bazaar.

8. With this observation, this Writ Petition stands closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD

ASSISTANT REGISTRAR (RECORDS)

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SUB ASSISTANT REGISTRAR (CS II)

gns

To

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

2. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.

1CC TO MR.G.K.SUNDARAM, ADVOCATE SR 101472

SP RSK SAR 2

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W.P. (MD) No. 24873 of 2018
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