



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 19.12.2018

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

W.P. (MD) No.24757 of 2018
and W.M.P. (MD) Nos.22454 & 22455 of 2018

Chandran

... Petitioner

Vs.

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

2.The Deputy Superintendent of Police,
Sankarankovil Sub division (Incharge)
Puliyankudi Sub Division,
Tirunelveli District.

3.The Inspector of Police,
Puliyangudi Police Station,
Puliyangudi,
Tirunelveli District.

...Respondents

PRAYER: 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 second respondent in his proceedings in Na.Ka No.886/Mike/SDO/2018, dated 11.12.2018 and quash the same and consequently direct the second respondent to grant police permission and protection for the function of Vennik Kaaladi Anniversary and procession with his photo on 20.12.2018 from 07.00 am to 07 pm at Patchery Village, Nelkattumseval, Sivagiri Taluk, Tirunelveli District.

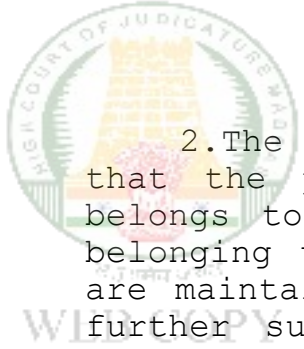
For Petitioner : Mr.C.Mayilvahana Rajendren

For Respondents : Mr.R.Anandharaj

Addl. Public Prosecutor

O R D E R

This petition has been filed challenging the impugned order passed by the second respondent in Na.Ka No.886/Mike/SDO/2018, dated 11.12.2018 and quash the same and consequently direct the second respondent to grant permission and protection for the function of Vennik Kaaladi Anniversary at Patchery Village, Nelkattumseval, Sivagiri Taluk, Tirunelveli District.



2.The learned counsel appearing for the petitioner would submit that the petitioner is a Nattanmai of Patchery Village and he belongs to a Devednrakula Vellalar community and that 400 people belonging to his community are there in his village and that they are maintaining communal harmony with the other people. He would further submit that the members of his village have decided to celebrate the anniversary of Mr.Vennik Kaaladi, who has fought against the British Rule in India. He would further submit that the anniversary has been celebrated on the 20th of December and accordingly, the petitioner had sent a representation on 20.11.2018 to the respondent Nos.2 & 3 to give permission to conduct the function. The respondents have received the representation and pursuant to the representation, the second respondent, by his communication dated 10.12.2018, asked the petitioner to appear on 11.12.2018 at 05.00 pm and to submit his explanation. He would further submit that the petitioner submitted his explanation whereas the second respondent had passed the impugned order dated 11.12.2018 rejecting the petitioner's request to conduct the function and being aggrieved by the impugned order, the petitioner has filed the present writ petition.

3.The learned counsel appearing for the petitioner would also submit that the impugned order dated 11.12.2018 passed by the second respondent is violative of Articles 14 and 21 of the Constitution of India and that the impugned order was passed with ulterior political motive. He would also submit that the reasons stated for rejecting his representation cannot be sustained and no valid reason has been stated in the order for rejecting permission. He would submit that seven reasons have been stated for rejection whereas none of them can be sustained and he would submit the reasons stated are that the function is being conducted for the first time and no prior permission have been obtained from any of other Government agency and no details about the function and the timing of the function has been given and since flex board & flags belonging to particular party is to be hoisted in the said place, there is a chance for misunderstanding between group and that there is apprehension of law and order problem. The other reason is that details regarding the ownership of the place where the meeting was to be conducted was not stated and that it belongs to the Government and no permission had been sought for and further proceedings had been initiated and there was an order under Section 30(2) of Police Standing Order.

4.The learned counsel would submit the function is to be headed by a responsible person in the village and that the petitioner has decided to shift the meeting place to the patta land in Survey No.743/3 in NerkattumSeval Village, which belongs to one Raja, who is the Secretary of a particular leading political party. He would also submit that the petitioner is prepared to abide by any stringent condition that may be imposed by the respondent police for allowing him to conduct the function and would also submit that only the residents of the village will be permitted and no other persons from outside will not be permitted to participate in the function



and no vehicles will be taken to the venue where the function is to be conducted.

4. The learned Additional Public Prosecutor appearing for the respondents vehemently opposed by stating that the area in which the petitioner has decided to conduct the meeting is communally a very sensitive area and that though the petitioner has got right, his interest cannot override the public interest and he would submit that conducting functions in the name of leaders, belonging to a particular communities have paved way and had been serious threat to infraction of law and order and dislodging communal harmony.

5. At this juncture, the learned counsel appearing for the petitioner would submit that nothing had been stated in the impugned order as if there is communal problem and the respondents cannot make out a different case by filing counter. He would relying to paragraph 24 & 25 of the judgment of this Court reported in **(2011) 3 MLJ 1046 S.Sivabalan Vs. Deputy Superintendent of Police, Tiruppur and another** submit that as on day no untoward incident has happened in his village and no FIR has been registered against any one of the groups. He would further submit that the impugned order is a vague and it has to fall or succeed on the reasons stated therein and it cannot be improved in the form of a counter affidavit or oral submissions and he would reiterate that any stringent condition may be imposed by the respondent police for allowing the petitioner to conduct Anniversary function on 20.12.2018.

6. The apprehension of the respondents is taken note of. The respondent police having not stated any valid reason in the impugned order regarding communal sensitivity cannot now take a different stand. This Court is of the opinion that permission can be granted imposing some stringent conditions. In view of the same, the respondents police are directed to grant permission for conducting the Vennik Kaaladi Anniversary at Survey No.743/3 in NerkattumSeval Village, by enclosing the following conditions:

i) the petitioner shall undertake and ensure that the function will be attended only by the people belonging to Patchery Village, Nerkattum Seval Sivagiri Taluk and no outsider shall participate and that the petitioner and his people will not commute to the venue of the function in any vehicle;

ii) The Vennik Kaaladi Anniversary should be completed within the time frame fixed by the respondent police i.e. 08.00 am to 10.00 am and the petitioner and other participants shall disburse immediately after the function from the venue;

iii) The petitioner and other participants shall not use any public address system or shout, raise any slogan for or against any community party or community or party leader or any caste, community or creed;

iv) The petitioner shall ensure that no untoward



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incident is caused disturbing the public peace and tranquillity;

v) The participants of the function shall not wear any form of dress showing offending slogans or picture of any communal/political leader which may cause disturbance;

vi) Songs praising communal leader or having communal overtones should not be played;

vii) The petitioner will ensure that no flex board or hoardings depicting particular community or leader will be displayed;

viii) There should not be any Flex Boards representing any community or political leaders;

ix) If there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;

x) Similarly, the Police is empowered to stop the anniversary function, if it exceeds beyond the permitted time;

xi) the participants of the function shall not intake any kind of toxic substance or liquor during the function;

xii) If there is any untoward incident, the village people and the organizers of the function be made responsible for the same;

xiii) The third respondent is at liberty to put any further restrictions or to impose any conditions purely in the interest of preserving public order and tranquillity, so as to maintain law and order and communal harmony, taking into consideration the ground reality and situation.

7. The petitioner is also directed to ensure that the conditions are strictly complied with and also to ensure that no law and order problem is created in the course of conducting the anniversary function.

8. The writ petition is disposed of with the above direction. Consequently, connected Miscellaneous Petitions are closed. No costs.

SD

ASSISTANT REGISTRAR (WRITS)

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SUB ASSISTANT REGISTRAR (CS II)

gns

To

1. The Superintendent of Police,

Tirunelveli District, Tirunelveli.



2. The Deputy Superintendent of Police,
Sankarankovil Sub division (Incharge)
Puliyankudi Sub Division,
Tirunelveli District.

3. The Inspector of Police,
Puliyangudi Police Station,
Puliyangudi,
Tirunelveli District.

1CC TO MR. C MAYIL VAHANA RAJENDRAN, ADVOCATE SR 101224

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W.P. (MD) No. 24757 of 2018

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