

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2019

CORAM

THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

WP.No.462 of 2019

Al-Jamiyathus Salafiya (AJS)
Affiliated to National Tawhid Federation (NTF)
Rep. by its Secretary
K.Asalam Basha,
No.450/273, High Road,
Pernambut,
Vellore District - 635 810

... Petitioner

Vs.

1. The Superintendent of Police
Vellore District.
2. The Deputy Superintendent of Police
Gudiyatham Police Sub-Division,
Gudiyatham,
Vellore District.
3. The Inspector of Police
Pernambut Police Station
Pernambut
Vellore 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 the records pertaining to Na.Ka.No.155/Ka.Aa./Pernambut Police Circle/2018, signed on 02.01.2019 by the 3rd respondent and quash the same and consequently direct the respondents to grant permission to the petitioner Association to conduct District Conference in the name of 'Tawhid Awareness Conference' near Shath Marriage Hall and opposite to Nazeer Function Hall in V.Kotta Road at Pernambut on 06.01.2019, Sunday between 4.00 p.m., to 10.00.

For Petitioner: Mr.P.Wilson
Senior counsel
For M/s.M.Mathialagan

For Respondents: Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This petition has been filed to issue a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order dated 29.12.2018 in Na.Ka.No.155/Ka.Aa./Pernambut Police Circle/2018, signed on 02.01.2019 by the 3rd respondent and quash the same and consequently direct the respondents to grant permission to the petitioner Association to conduct District Conference in the name of 'Tawhid Awareness Conference' near Shath Marriage Hall and opposite to Nazeer Function Hall in V.Kotta Road at Pernambut on 06.01.2019, Sunday between 4.00 p.m., and 10.00.

2. Mr.P.Wilson, the learned senior counsel for the petitioner, assisted by Mr.M.Mathialagan has submitted that the petitioner is an Association registered under Societies Registration Act. He further submitted that the petitioner association is affiliated to National Tawhid Federation (NTF). He further submitted that the petitioner Association is functioning at Pernambut Town in Vellore District with an object to make awareness among the people to follow Quran and Mohammed Nabi's words to eradicate social evils. He further submitted that the petitioner is administering three Dargah viz., Mohammadhiya, Ragmania and Tawhid in pernambut Town. He further submitted that the petitioner is also running an elementary School viz., Mohammadhiya Elementary School with the recognition of Tamil Nadu Government School Education Department and in which around 500 students are studying. He further submitted that the Petitioner association has conducted more than 50 medical camp in association with the Government hospital. He further submitted that the petitioner association has conducted many public meetings and conferences without giving place for any law and order problems. Even in the last year i.e., on 31.12.2017, Mr.B.Jainul Abdeen, Founder of Tamilnadu Tawhid Jamadh participated in a meeting organized by the petitioner association in V.Kotta Road-Shath Marriage Hall in Pernambut Town without any problem. He further submitted that for conducting District Conference in the name of Tawhid Awareness Conference near Shath Marriage Hall and opposite to Nazeer Function Hall in V.Kotta Road at Pernambut on 06.01.2019, between 4.00 p.m., and 10.00 p.m., the Secretary to the petitioner association has submitted a representation on 13.12.2018 to the third respondent seeking permission but the third respondent did not give permission, even after more than 15 days. Hence, the Secretary to the petitioner association has submitted a representation before the 1st respondent on

31.12.2018 and only thereafter the third respondent has passed the impugned order by putting ante-date as 29.12.2018 but signed only on 02.01.2019. He further submitted that in the said order, the third respondent has stated that if conference is conducted in the said place, it would create difference of opinion and confusion among the muslims and it would also create law and order problems.

3. He further submitted that in the said order, he also stated that it would also cause traffic problem affecting the public's normal life. He further submitted that the order was affixed at the petitioner's office on 04.01.2019 stating that the petitioner has refused to receive the said order. He further submitted that the petitioner has not at all refused to receive the said order, and only with a view to prevent the petitioner from conducting Conference, the respondents have affixed the said order belatedly. He further submitted that the reasons stated in the impugned order are not tenable. The third respondent has not cited any specific incidents which leading to pass such an order. He further submitted that the place in which the conference to be held belong to private person and the said person also gave permission for conducting the conference and hence, the question of affecting the public's normal life will not arise. He further submitted that the petitioner under takes that no untoward incidents will take place. He further submitted that conducting the meeting is a fundamental right and the same cannot be prohibited by the respondent police. He further submitted that under Section 32 of the police Act 1861, the police is not having power to prohibit any public meeting and only they can regulate the meetings. He further submitted that already all the arrangements made for conducting conference and if the conference is cancelled in the last minute that it will cause much hardship to the petitioner association and to the participates and hence he prayed to set aside the order passed by the third respondent and direct the third respondent to grant permission for conducting the District Conference in the aforesaid place on 06.01.2019 between 4.00 p.m., and 10.00 p.m.,

4. Per contra, Mr.M.Mohamed Riyaz, the learned Additional Public Prosecutor has submitted that in the representation submitted by the petitioner has not specifically stated that the place in which they are going to conduct the conference belongs to a private person and they have obtained permission from the owner of the said place. He further submitted that in para 4 of the affidavit, the petitioner has admitted that in the last year, the conference was held in the marriage hall whereas now they are seeking permission to conduct conference in the public place . He further submitted that for conducting this conference some of the persons raised objections and if

permission is granted for conducting this kind of conference that it would create law and order problem, it would also cause traffic problem affecting the public's normal life and therefore he strongly opposed this petition.

5. The learned senior counsel for the petitioner by way of reply has submitted that the petitioner is ready to produce the relevant documents to show that the venue belongs to a private person and the third respondent may be directed to consider the said documents and pass appropriate orders.

6. A perusal of the impugned order shows that the third respondent has simply stated that if any permission is granted to the petitioner for conducting conference in the said place, it would create difference of opinion and confusion among the muslims. He further stated that it would create law and order problem. But he has not stated that on what basis he arrived at such a conclusion. Further the third respondent has not stated in his order that who are the persons raised objections for conducting conference by the petitioner association. Under the said circumstances, this Court is of the view that the order passed by the third respondent is not sustainable in law. Accordingly, the said order is quashed.

7. The petitioner is directed to submit the relevant documents before the third respondent tomorrow (06.01.2019) at 10.00 a.m., to show that the place where they are going to conduct the conference belongs to a private person. On production of such documents the third respondent has to verify and if he is satisfied that the said place belongs to any private person and owner of the said place also gave permission, then he has to grant permission by imposing reasonable restrictions including that the petitioner association should not speak affecting the sentiments of other people.

8. With the aforesaid directions, this writ petition is disposed of. No costs.

-s/d-

Deputy Registrar

True Copy

Sub-Assistant Registrar

msrm

To

1. The Superintendent of Police
Vellore District.
 2. The Deputy Superintendent of Police
Gudiyatham Police Sub-Division,
Gudiyatham,
Vellore District.
 3. The Inspector of Police
Pernambutti Police Station
Vellore District.
 4. The Public Prosecutor
High Court of Madras.
- +1 CC to Mr.M.Mathialagan, Advocate sr 1156.

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SP(08/01/2019)