

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.01.2019

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.544 of 2019

Vasanth Kumar

.. Petitioner

Vs.

The Inspector of Police,
Malaiyampalayam Police Station,
Erode District.

.. Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for record of the respondent in relation to proceedings issued in Na.Ka.No.2/F3 PS/E/2018 dated 25.12.2018 and quash the same so far as per the petitioner are concerned and issued direction to the respondent to grant permission conducting the cultural Dance Program in the Mariamman Temple at Vellotamparappu, Punjai Kolanalli Village, Kodumudi Taluk, Erode District, dated 24.01.2019.

For Petitioner : Mr.C.Neethimozhi

For Respondents: Mr.E.Balamurugan

Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings of the respondent in Na.Ka.No.2/F3 PS/E/2018 dated 25.12.2018 and to direct the respondent to give permission to the petitioner to conduct a cultural dance program in the Mariamman Temple at Vellotamparappu, Punjai Kolanalli Village, Kodumudi Taluk, Erode District, dated 24.01.2019.

2. Earlier, this Court had granted permission to the similarly placed persons to conduct Adal Padal cultural Programme by imposing stringent conditions. In this regard, the learned Special Government Pleader appearing for the respondents produced a Circular Memorandum in Rc.No.159539/Crime.4(3)/2018 dated 30.10.2018, in which, instructions are given to all

Commissioners of Police in Cities and all the Superintendents of Police in Districts to ensure that the order of the High Court is communicated to all the Inspectors / Station House Officers under their control and the directions are implemented without any deviation. The said Memorandum is extracted hereunder:

"The Hon'ble Madurai Bench of Madras High Court in its order dated 25.07.2018 quoted the earlier order in W.P(MD).No.13517/2018 with regard to the conditions imposed in its order giving permission to "Aadal Padal Programme" which are reproduced hereunder.

(a) the "Aadal Padal" Programme in connection with a festival should be completed before 10.30p.m

(b) double meaning songs should not be played so as to spoil the minds of students and the youth.

(c) no songs, touching upon any political party or religion, community or caste be played

(d) no flex boards in support of any political party or religious leader be erected

(e) the function should not be affect either religious or communal harmony and shall be conducted without any discrimination based on caste

(f) 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

(g) Similarly, the Police is empowered to stop the programme, is it exceeds beyond the permitted time.

(h) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme and

(i) if any untoward incident takes place, the organizers of the programme be made responsible for the same

and also quoted the relevant portion of the decision rendered by the Hon'ble Supreme Court in Church of God (Full gospel) in India Vs K.K.R Majestic

Colony Welfare Association and others,
reported in 2001 1 LW (Cr1) 233 reads
as follows:

Further, it is to be stated that because of urbanization or industrialization, the noise pollution may in some area of a city/town might be exceeding permissible limits prescribed under the rules, but that would not be a ground for permitting others to increase the same by beating of drums or by use of voice amplifiers, loudspeakers or by such other musical instruments and therefore, ruled prescribing reasonable restrictions including the rules for the use of loudspeakers and voice amplifiers framed under the Madras Town Nuisance Act, 1889, and also the Noise Pollution (regulation and Control) Rules, 2000 are required to be enforced. We would mention that even through the Rules are unambiguous, there is lack of awareness among the citizens as well as the implementation Authorities about the Rules or its duty to implement the same. Noise Pollution activities which rampant and yet for one reason or the other, the aforesaid Rules or the rules framed under various State Police Acts are not enforced. Hence, the High Court has rightly directed implementation of the same in the result, the appeal is dismissed."

In addition to the above condition imposed in W.P.(MD) No.13517/2017 the following directions also issued by the Hon'ble Madurai Bench of Madras High Court

"In the event of granting permission by the second respondent/Inspector of Police, the member of the petitioner has to give undertaking or assurance before the authority concerned that there will not be any obscenity or vulgarity in the cultural programme and there will not be any disturbance to the public peace and tranquility."

2) The second respondent/ Inspector of Police is directed to video graph the entire cultural programme at the cost of the petitioner and submit the CD to the Superintendent of Police.

3) If any violation of the above said condition by any of the parties is noted, the respondents are at liberty to take appropriate criminal action against the organizer and the concerned persons in accordance with law.

4) Hence, all the Commissioners of Police in Cities and all the Superintendents of Police in Districts are instructed to ensure that the Hon'ble High Court order is communicated to all the Inspectors/ Station House Officers under their control and the directions are implemented without any deviation.

5) The Inspectors/Station House Officers should get an undertaking from the Petitioners/ Organizers at the time of granting permission to the Adal Padal cultural programs and also to get an assurance from the organizers that there will not be any obscenity or vulgarity in the cultural programme and there will not be any disturbance to the public peace and tranquility. If any violation is noticed stringent action should be taken without delay.

6) Receipt of the circular memorandum should be acknowledged"

3. The respondent has refused to grant permission on the ground that it will be a hindrance to the traffic and the public would be put to inconvenience. The other reasons given are that there will be double meaning dialogues and also there will be a law and order problem.

4. The learned Special Government Pleader would submit that if the petitioner makes a fresh representation changing the venue of the program, which would not cause hindrance to the

traffic and also the petitioner gives an undertaking as per the circular memorandum, the same would be considered. It is further stated that if any permission which would be granted within the stipulated conditions issued by this Court as well as the circular memorandum, the petitioner has to strictly follow the same within the time granted for the conduct of such program. As already the Director General of Police has authorised the Inspectors/Station House Officers in this regard to take appropriate decision considering the ground reality in any particular area/locality pursuant to the orders of this Court, if the petitioner makes a fresh application to the respondent, the respondent is directed to consider the same by following the said memorandum and pass appropriate orders based on the petitioner's fresh representation on or before 23.01.2019.

5. With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

The Inspector of Police,
Malaiyampalayam Police Station,
Erode District.

+1cc to Mr.C.Neethimozhi, Advocate sr.no.3658

W.P.No.544 of 2019

spd(co)
nr 22/01/2019

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