

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.01.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.932 of 2019

B.Santhoskumar

Petitioner

Vs

1.The Superintendent of Police,
Vellore, Vellore District - 632 001.

2.The Inspector of Police,
Melpadi Police Station,
Katpadi Taluk,
Vellore District - 632 520.

Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents to grant permission to conduct the cultural programme of Adal Padal on 17.01.2019 at 07.00p.m., to 12.00p.m., at "Sri Iuppachi Amman Temple Festival" Periyakeesakuppam Village, Melpadi Post, Katpadi Taluk, Vellore District by consider and pass orders on the representation dated 04.01.2019 made by the petitioner within the time frame as may be fixed by this Hon'ble Court and pass such other or further order or orders as this Honourable Court may deem fit.

For Petitioner : Mr.S.Mayilnathan

For Respondents: Mr.E.Balamurugam,
Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondents 1 and 2 to grant permission to conduct the cultural programme of AdalPadal on 17.01.2019 at 07.00 P.M. to 12.00 P.M. at "Sri Iuppachi Amman Temple Festival" Periyakeesakuppam Village, Melpadi Post, Katpadi Taluk, Vellore District by considering the representation dated 04.01.2019 made by the petitioner.

2. Today, when this matter is taken up for hearing, Mr.E.Balamurugan, learned Special Government Pleader who accepts

notice on behalf of the respondents would submit that no representation was received by the respondents from the petitioner and therefore a direction may be given to the petitioner to resubmit the same to the respondents forthwith and on receipt of the said representation, the respondents shall pass orders on merits and in accordance with law.

3. 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 (Crl) 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 though 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. 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, the petitioner is permitted to resubmit the representation dated 04.01.2019 to the respondents and on receipt of the same, the respondents are directed to follow the said memorandum and pass appropriate orders based on the petitioner's representation dated 04.01.2019 on or before 13.01.2019.

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

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sbn/arr

To

1.The Superintendent of Police,
Vellore, Vellore District - 632 001.

2.The Inspector of Police,
Melpadi Police Station,
Katpadi Taluk,
Vellore District - 632 520.

+1cc to Mr.S.Mayilnathan, Advocate, S.R.No. 2925

W.P.No.932 of 2019

MP(CO)
GN(11/01/2019)