

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 25.01.2019

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THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.1947 of 2019

D.Raju

.. Petitioner

Vs.

The Inspector of Police,
Tholasampatti Police Station,
Tholasampatti,
Salem District.

.. Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent authority to give permission to conduct Cultural Programme (Adal Padal) in the event of Nathakadu Arulmigu Sree Ongaliamman Temple Festival at Omalur Taluk, Salem District on 31.01.2019 between 06.00PM to 11.00PM by considering the Petitioner's representation dated 19.01.2019.

For Petitioner : Mr.A.Sathishkumar

For Respondent : Mr.E.Balamurugan

Special Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the respondent authority to give permission to conduct cultural program (Adal Padal) in the event of Nathakadu Arulmigu Sree Ongaliamman Temple Festival at Omalur Taluk, Salem District, on 31.01.2019 between 06.00PM to 11.00PM based on his representation dated 19.01.2019.

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 respondent 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. 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 respondent is directed to follow the said memorandum and pass appropriate orders based on the petitioner's representation dated 19.01.2019 within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

The Inspector of Police,
Tholasampatti Police Station,
Tholasampatti,
Salem District.

2. The Director General of Police,
Mylapore , Chennai.

+1cc to Mr.A.Sathishkumar , Advocate SR.No. 5859

W.P.No.1947 of 2019

A.SK(30/01/2019)