

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

W.P.No.2844 of 2019
& W.M.P.No.3105 of 2019

C.Saravanan

...Petitioner

Vs

- 1.The Chief Secretary,
State of Tamil Nadu
Secretariat, Fort St George,
Chennai.
- 2.The Collector,
Namakkal District,
Namakkal.
- 3.The Divisional Engineer,
Department of Highways,
Mohanur Road,
Namakkal.
- 4.The Superintendent of Police,
Namakkal District.
Namakkal.

...Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondents 2 to 4 to grant permission to holding the public meet in the name of the 2nd Ulaga Kongu Tamilar Manadu' (2nd Kongu Tamilar Meet) holding by Kongunadu Makkal Desiya Katchi' on 03.02.2019 at BommaikuttaiMedu, Puthusathiram Taluk, Namakkal District, very close proximity of NH44 based upon petitioner representation dated 23.01.2019.

For Petitioner : Mr.K.Narayanan

For Intervenor : Mr.V.P.Sengotuvel

For Respondents: Mr.E.Manoharan

Addl. Government Pleader for R1 & R2

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The Writ Petition, styled as a Public Interest Litigation, is filed by the petitioner alleging that a political party namely ''Kongunadu Makkal Desiya Katchi'' holding a public meeting in the name of ''2nd Ulaga Kongu Tamilar Manadu'' on 03.02.2019 at BommaikuttaiMedu, Puthusathiram Taluk, Namakkal District, and the place of such a meeting is located very adjacent to National Highway-44 and the grievance of the petitioner is that for the purpose of attending the said meeting, cadre of members belong to the said party would resemble in large members and people would also brought in very many vehicles and in that event, it may create traffic congestion / chaos affecting the free movement of traffic in the said Highways and also expressed apprehension that ambulance, fire engine could not even pass through in the event of emergency situation. In this regard, he has submitted a representation dated 23.01.2019 to the respondents and despite receipt and acknowledgement, no response is forthcoming and hence came forward to file this writ petition.

2. Mr.E.Manoharan, learned Additional Government Pleader, who accepts notice on behalf of respondents 2 and 3, on instructions would submit that all necessary permissions / clearances have been granted to the said Party and the said meeting will be held in private patta lands and seeks time to get further instructions.

3. Mr.V.P.Sengotuvel who represents Kongunadu Makkal Desiya Katchi prays for permission of this Court to intervene in this matter for the reason that the said Party is conducting the Meeting and this Court has also permitted him to intervene and he made a submission that the present writ petition is nothing but a private interest litigation and the petitioner till recently was a member of the said political party and that he belongs to the rival faction of the said party and he is also facing very many criminal cases/prosecution and the said fact has been totally suppressed in the affidavit filed in support of this writ petition and further add that for conducting the said meeting, they have got all necessary clearances and approval and

more than 30,000 people are expected to participate which include foreign delegates also and would further assures that while the said meeting is conducted, there will not be any law and order problem and traffic congestion in the particular portion of the National Highways and also undertakes to extend maximum cooperation to the jurisdictional revenue and police authorities and prays for dismissal of this writ petition with exemplary costs.

4. In the light of the submission made by the Intervenor, the petitioner, who is present before this Court, was summoned and enquired through his lawyer and he would submit that he is expelled from the faction of the party.

5. The learned counsel appearing for the Intervenor has also produced photographs, which would disclose that he was found in the company of Mr.Thaniyarasu, State MLA of the rival party and the petitioner belongs to தமிழ்நாடு கொங்கு இளைஞர் பேரவை, Mohanur Panchayat, Namakkal Taluk.

6. It is also brought to the notice of this Court by the learned counsel for the Intervenor that as per Face Book profile, he says that he belongs to 'தனியரசுவின் கரும்புலி கூட்டம்' and as such, the submission of the learned counsel for the petitioner that he has been expelled from the party cannot be correct.

7. This Court has considered the rival submission and also perused the materials placed before it.

8. The Hon'ble Supreme Court of India in the decision in State of Uttaranchal Vs. Balwant Singh Chautal and others [(2010) 3 SCC 402] has considered the scope and purport of Public Interest Litigation and it is relevant to extract Paragraph No.181 of the same:

"181. We have carefully considered the facts of the present case. We have also examined the law declared by this court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:-

(1) The courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations. (2) Instead of every individual judge devising his own procedure for dealing with the public interest litigation, it would be appropriate for each High Court to properly formulate rules for encouraging the genuine PIL and discouraging the PIL filed with oblique motives. Consequently, we

request that the High Courts who have not yet framed the rules, should frame the rules within three months. The Registrar General of each High Court is directed to ensure that a copy of the Rules prepared by the High Court is sent to the Secretary General of this court immediately thereafter.

(3) The courts should prima facie verify the credentials of the petitioner before entertaining a P.I.L.

(4) The court should be prima facie satisfied regarding the correctness of the contents of the petition before entertaining a PIL.

(5) The court should be fully satisfied that substantial public interest is involved before entertaining the petition.

(6) The court should ensure that the petition which involves larger public interest, gravity and urgency must be given priority over other petitions.

(7) The courts before entertaining the PIL should ensure that the PIL is aimed at redressal of genuine public harm or public injury. The court should also ensure that there is no personal gain, private motive or oblique motive behind filing the public interest litigation. (8) The court should also ensure that the petitions filed by busybodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

and in terms of the said judgement, this Court has also framed the Rules to Regulate the Public Interest Litigations filed under Article 226 of the Constitution of India under ROC.bearing No.SRO C-2/2010.

9. A perusal and consideration of the materials produced by the learned counsel appearing for the Intervenor would disclose that the petitioner had failed to approach this Court with clean hands and he is also guilty of suppression of materials facts. No doubt, the Public Interest Litigation is not a adversary litigation and therefore, the party, who seeks aid of this Court in the form of said litigation, is expected to state and disclose all the relevant and material facts and however, he has miserably failed to do so. It also appears that the petitioner is indulging in private interest litigation and by doing so has wasted the precious judicial time of this Court and also abused the process of this Court and it also noted at this juncture that the representation is also of very recent origin and the

petitioner has not even produced the acknowledgement for having served the respondents. Therefore, the writ petition deserves dismissal with exemplary costs..

10. In the result, the writ petition is dismissed with a cost Rs.25,000/- (Rupees Twenty Five Thousand only) payable to Tamil Nadu Mediation and Conciliation Centre, Madras High Court and the said cost to be paid on or before 18.02.2019. This Court also directs the Station House Officer, Nallipalayam Police Station along with District Revenue Officer, Namakkal District to file a joint status report as to the obtaining of all necessary clearances and permissions for safety purpose and other related objects as to the convenience of the road users of NH-44, in respect of the place nearer to the said stretch, in which meeting is going to be held. No costs. Consequently, connected miscellaneous petitions is also dismissed.

11. Call on 19.02.2019, as to the payment of costs by the writ petitioner and for filing of the Status Report.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

TO:-

- 1.The Chief Secretary,
State of Tamil Nadu
Secretariat, Fort St George,
Chennai.
- 2.The Collector,
Namakkal District,
Namakkal.
- 3.The Divisional Engineer,
Department of Highways,
Mohanur Road,
Namakkal.
- 4.The Superintendent of Police,
Namakkal District.
Namakkal.

5.The Station House Officer,
Nallipalayam Police Station,
Namakkal District.

6.The Revenue Officer,
Namakkal District.

7.The Section Officer,
Writ Section, High Court, Madras.

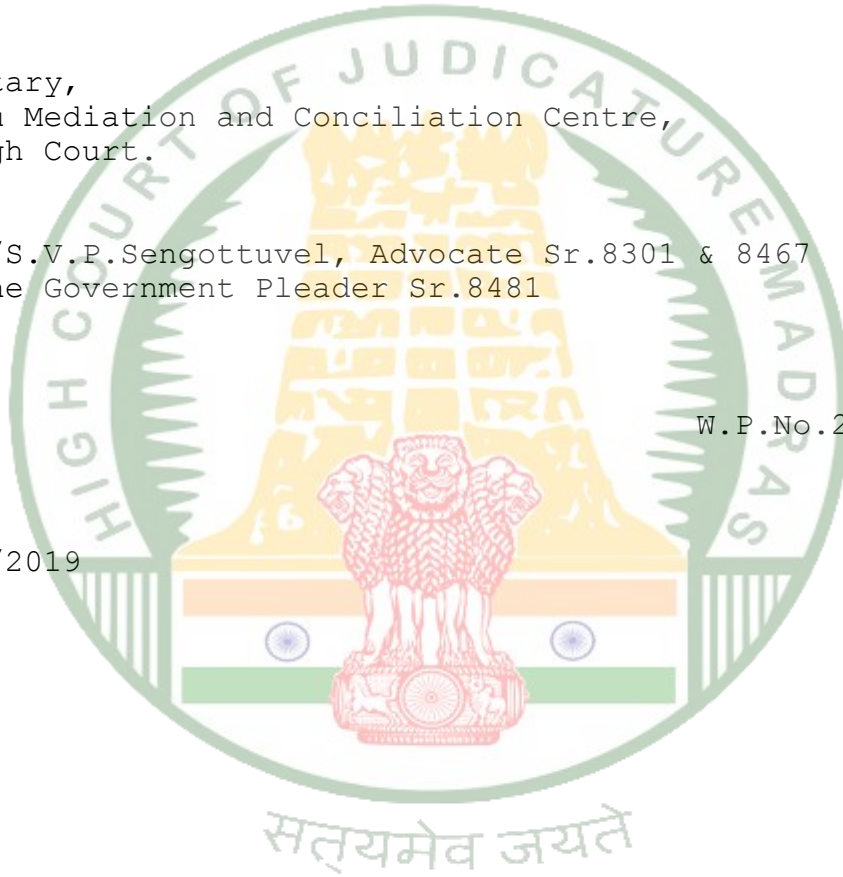
Copy to:

The Secretary,
Tamil Nadu Mediation and Conciliation Centre,
Madras High Court.

+2cc to M/S.V.P.Sengottuvel, Advocate Sr.8301 & 8467
+1cc to the Government Pleader Sr.8481

W.P.No.2844 of 2019

cp[col]
srg 27/02/2019



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