

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.4026 of 2019

Selvi.Vembu
C/o.Traffic Ramaswamy
Social Activist/Student of Traffic Ramaswamy
III Floor, 123 Prakasam Salai
Broadway Road
Chennai 108.Petitioner in person

Vs

State
rep. By

1. The Joint Secretary
Ministry of Information & Broadcasting
Room No.552, A Wing, Shastri Bhawan
New Delhi 110 001.
2. The Additional Chief Secretary
Governor of Tamil Nadu
Raj Bhavan
Sardar Patel Road
Chennai 22.
3. The Chief Secretary
Tamil Nadu Secretariat
Fort St. George, Rajaji Salai
Chennai 9.
4. The Principal Secretary to Government
Health & Family Welfare Department
Fort St. George
Chennai.

...Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to consider the representation/complaint dated 29/1/2019, and the first respondent to frame the rules for the punishment for the violation or disobeying the circular issued by the first respondent about playing the National Anthem, also take action against the third respondent for disobeying of the

non-playing National Anthem on 27/1/2019 at Government function, Madurai.

For petitioner ... Mr.K.Arvind
for
Traffic Dr.K.R.Ramasamy.

For respondents... Mr.G.Karthikeyan
Assistant Solicitor General of India
for R.1

Mr.E.Manoharan
Additional Government Pleader
for R.R.2 to 4

O R D E R

(Order of the Court was made by S.Manikumar, J)

Claiming herself, to be in care of Dr.K.R.Traffic Ramaswamy and actively associated with the social service, Selvi.Vembu, has sought for a writ of mandamus, directing the Joint Secretary, Ministry of Information & Broadcasting, New Delhi; Additional Chief Secretary, Governor of Tamil Nadu, Chennai; Chief Secretary, Tamil Nadu Secretariat, Chennai and the Principal Secretary to Government, Health and Family Welfare Department, Chennai, respondents 1 to 4 respectively, to consider her representation/complaint, dated 29/1/2019, and the first respondent, to frame the rules, for imposing punishment and also to take action against the third respondent, for disobedience, in not playing National Anthem, on 27/1/2019, in a Government function, held at Madurai.

2. Supporting the prayer sought for, petitioner has contended that Ministry of Home affairs has sent a circular, to all the State and Central Government Departments, that on the arrival of His Excellency, the Governor/Lieutenant Governor, at formal State functions, within the State/Union Territory and on his departure from such functions, National Anthem has to be sung.

3. Petitioner has further contended that on 27/1/2019, there was a Government function, at Madurai, for laying foundation stone for AIIMS, All India Institute for Medical Sciences. Such function was organised by the Chief Secretary, Government of Tamil Nadu, the third respondent. The said function was presided over by the Hon'ble Prime Minister of India, Mr.Narendra Modi, along with His Excellency the Governor of Tamil Nadu, and the Hon'ble Chief Minister of Tamil Nadu and others.

4. Petitioner has further contended that it is a customary practice of reciting Tamil Thai Vazhthu, in any Government function. According to him, even though, the third respondent had organised a Government function, stated supra, neither Thamizhthai Vazhthu nor National Anthem was played, in the said function, as per the Circular and thus, there is a violation or dis-obeyance of the Circular, issued by the Joint Secretary, Ministry of Information and Broadcasting, New Delhi. Petitioner has further contended that there are no rules for imposing punishment, in case of violation or disobedience of the Circular and therefore, the petitioner has sent a representation/complaint, dated 29/1/2019, to the respondents.

5. Contending inter alia that the said complaint remains unanswered and left with no other alternative, petitioner has filed the instant writ petition for a mandamus, stated supra.

6. Heard Mr.K.Arvind, learned counsel for the petitioner, Mr.G.Karthikeyan, Assistant Solicitor General of India for the first respondent and Mr.E.Manoharan, learned Additional Government Pleader for the respondents 2 to 4.

7. On the basis of the above averments and inviting the attention of this Court to a Circular, said to have been issued by the Ministry of Information & Broadcasting, learned counsel for the petitioner submitted that on the arrival of the Lieutenant Governor, at formal State functions, within the State and on his departure from such functions, National Anthem should be sung.

8. Circular said to have been issued by the Ministry of Information and Broadcasting is enclosed in the typed set of papers. But the said Circular, as enclosed in the typed set of papers filed along with the writ petition, does not contain any number or date. However, the learned counsel for the petitioner submitted that the above said Circular has been downloaded from the website of the Ministry of Home affairs. Authenticity to the said Circular, without any details, stated supra, cannot be given to the Court.

9. Perusal of the representation/complaint, dated 29/1/2019, stated to have been sent to the Hon'ble Minister for Home Affairs, New Delhi, Joint Secretary, Ministry of Information & Broadcasting, New Delhi, the Chief Secretary to Government of Tamil Nadu and to the Principal Secretary, Government of Tamil Nadu, Health and Family Welfare, Chennai, shows that there was a Government function, on 27/1/2019, at Madurai, for laying the foundation stone for AIIMS. The Hon'ble Prime Minister of India, His Excellency the Governor of Tamil

Nadu, the Hon'ble Chief Minister of Tamil Nadu and others were the dignitaries. In her representation/complaint, dated 29/1/2019, the petitioner has stated that in Government functions, it is the customary practice of recital of Thamizhthai Vazhthu. In 2003, Maharashtra Assembly has made it mandatory that National Anthem should be played in theaters before the start of the movie.

10. According to the learned counsel for the petitioner, under the State Emblem of India (Regulation of Use) Amendment 2010, National Anthem shall be played, on arrival of His Excellency the President of India, at formal State function and other functions, organised by the Government and mass functions and on his departure from such functions. Petitioner has also contended that the Hon'ble Prime Minister, the Governor of Tamil Nadu, who have almost equal powers and status, as that of his Excellency the President of India, should have such customary practice of the National Anthem, being played in Government functions.

11. Petitioner, in her representation, dated 29/1/2019, has contended that both AIADMK and BJP have failed to honour the National and State flags. Petitioner has also contended that though the order/Circular issued by the Ministry of Home Affairs does not mandate National Anthem to be played, but according to her, there is a violation of the said Circular and that therefore, the office of the Hon'ble Prime Minister, Office of the Hon'ble Chief Minister should tender apology, accepting that they would never repeat such mistakes and that too within 48 hours, from the date of the representation/complaint, dated 29/1/2019, or else she would be constrained to take legal action against them. When the said representation remain unanswered, petitioner has sought for the relief as stated supra.

12. A bare reading of her representation, dated 29/1/2019, makes it abundantly clear that when the petitioner herself has stated that there is no mandate for National Anthem being sung, as a thumb rule, but only a customary practice, mandamus sought for against the respondents, to consider the representation/complaint, dated 29/1/2019, to direct the Joint Secretary, Ministry of Information and Broadcasting, New Delhi, to frame Rules for imposing punishment, in case of violation or disobedience of the Circular and to take action, against the Chief Secretary, Government of Tamil Nadu, for the alleged disobedience of the Circular, in not playing National Anthem, on 27/1/2019, cannot be issued.

13. Petitioner has not adduced any particulars to support her contention that she is a social activist, but chosen to file the instant writ petition, claiming to be in care of Traffic Ramaswamy. Law permits a person to vindicate his/her rights and

seek for the intervention of Courts, in public interest, for enforcement of laws. Though the petitioner has claimed herself to be a social activist and follower of Dr. Traffic Ramaswamy, towards the cause of social service, we are unable to appreciate that for the alleged inaction, on the part of the third respondent, which even according to the writ petitioner is not mandatory, through her representation/complaint, dated 29/1/2019, she has demanded an apology from the office of the Hon'ble Prime Minister and office of the Hon'ble Chief Minister, Government of Tamil Nadu.

14. The Hon'ble Supreme Court, time and again has held that a litigant, who engages in frivolous writ petitions and styled as Public Interest writ petitions, should be dealt with sternly and impose with severe costs, for wasting the time of the Court, when innumerable litigants await their litigations to be disposed of, at the earliest. On the facts and circumstances, we are inclined to observe that Public Interest writ petitions should be filed only if they satisfy the requirements, as laid down by the Hon'ble Supreme Court.

15. In view of the above, the instant writ petition is dismissed. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mvs.

To

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New Delhi 110 001.
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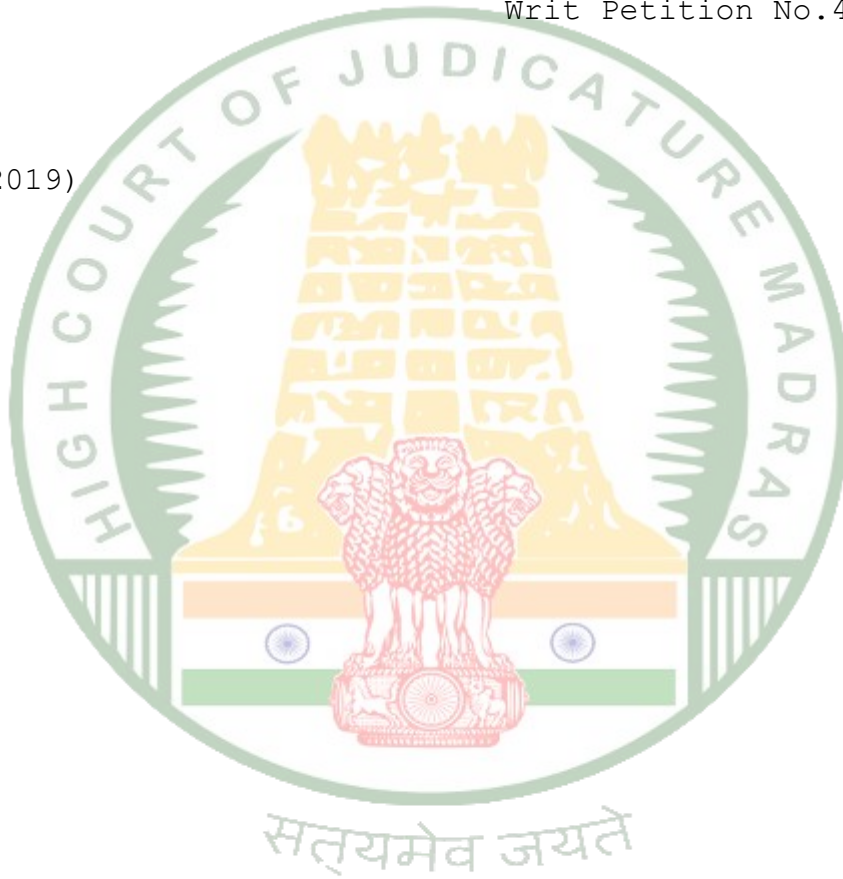
4. The Principal Secretary to Government
Health & Family Welfare Department
Fort St. George
Chennai.

+1 CC to Ms.Vembu, Advocate sr 12399.

+1 CC to Mr.G.Karthikeyan, Advocate sr 12608.

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MP (CO)
SP (27/03/2019)



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