

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.10993 of 2019
and
WMP No.11424 of 2019

K.Dinesh

... Petitioner

Vs.

1. The Chief Electoral Officer,
Public (Election) Department,
Secretariat, Fort St. George,
Chennai.

2. The Assistant Commissioner of Police,
In Charge Officer,
No.20, Coimbatore Parliamentary Constituency,
Coimbatore. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent vide Na.Ka.No.373/SWS/20 CBE PC/2019 dated 3.4.2019 and quash the same as illegal and unconstitutional, most specifically it is against Article 19 (1) (a) and 19 (1) (c) and Article 21 of Constitution of India and consequently directing the respondents to permit the petitioner to hold the Public Meeting at VKK Menan Road, Near Jeya Bakery, Siddhapudur, Coimbatore City on any date not later than the date of the election which is scheduled on 18.4.2019.

For Petitioner : Mr.E.Vijay Anand

For Respondents: Mr.Niranjan Rajagopalan
Standing Counsel for ECI

O R D E R

(Order of this Court was made by S.MANIKUMAR, J.)

Petitioner has sought for permission to conduct a meeting on 07.04.2019 at VKK Menan Road, Near Jeya Bakery, Siddhapudur, Coimbatore City. Vide order dated 03.04.2019, Assistant Commissioner of Police, In charge of No.20, Coimbatore Parliamentary Constituency, Coimbatore, the 2nd respondent, has rejected the request of the petitioner and the same is challenged in this writ petition, by way of a writ of certiorarified mandamus, to call for records of the impugned order passed by the 2nd respondent vide Na.Ka.No.373/SWS/20 CBE PC/2019 dated 3.4.2019 and to quash the same, as illegal and unconstitutional, most specifically it is against Article 19 (1) (a) and 19 (1) (c) and Article 21 of Constitution of India and also sought for a consequential direction to the respondents, to permit the petitioner to hold Public Meeting at VKK Menan Road, Near Jeya Bakery, Siddhapudur, Coimbatore City on any date not later than the date of the election which is scheduled on 18.4.2019.

2. Inviting the attention of this Court to an order made in WP No.20174 of 2010 dated 19.01.2011, passed by one of us [Hon'ble Mr.Justice S.Manikumar], in S.Sivabalan Vs. Deputy Superintendent of Police, Tiruppur Sub-Division, Tiruppur 641 607 and another, reported in 2011(3) MLJ 1046 and another decision in P.Manimaran Marumalarchi Dravida Munnetra Kazhagam South Chennai District Vs. The Assistant Commissioner of Police, reported in 2014 SCC OnLine Mad 11017, Mr.E.Vijay Anand, learned counsel for the petitioner submitted that there cannot be a total ban on May Seventeen Movement in conducting a public meeting on the subject "Saving Tamilnadu People's Right".

3. Taking notice on behalf of the Chief Electoral Officer, Public (Election) Department, Chennai, 1st respondent, Mr.Niranjana Rajagopalan, learned counsel for the Election Commission of India submitted that order made in WP No.20174 of 2010 dated 19.01.2011, cannot be made applicable, in all circumstances and on the facts and circumstances of this case, police has noticed that "May Seventeen Movement", is in the habit of speaking against the Constitution of India and various cases have been registered. The Assistant Commissioner of Police, Coimbatore City, 2nd respondent has expressed that there will be a law and order problem, if permission is granted and accordingly, rejected the permission. He also submitted that when Model Code of Conduct is in force, authorities have to be

given the latitude to take into consideration, maintenance of law and order, which has been taken note of and therefore, for the abovesaid reasons prayed for dismissal of the writ petition.

4. Heard the learned counsel for the parties and perused the materials available on record.

5. Order in Na.Ka.No.373/SWS/20 CBE PC/2019 dated 03.04.2019 of the Single Window / Permission Granting Officer, 20 Coimbatore Parliamentary Constituencies, The Assistant Commissioner of Police, Land Grabbing Division, Coimbatore City, impugned in this writ petition reads thus.

Sub: Election 2019-2010 Coimbatore
Parliamentary
Constituency - May Seventeen Movement
Application

dated 07/04/2019 - Public Meeting - in the
name of

"Saving Tamil Nadu People's Right" at VKK
Menan Road,

Near Jeya Bakery, Siddhapudur - Reg

Ref: 1. Application dated 02/04/2019 from
K.Dinesh,

No.16/23, Karunanithi Nagar, Sowripalaiyam,
Coimbatore

- 641 028.

2. Report dated 03/04/2019 from C1 Kaadoor
Inspector

and The Assistant Commissioner, Law & Order
(Central)

Coimbatore.

ORDER:

Mr.K.Dinesh had by his application sought for
permission to conduct a public meeting on 7/04/2019
around 5PM in VKK Menan Road, Near Jeya Bakery,
Siddhapudur, Gandhipuram.

On receipt of report 2nd above referred, it is
seen that the petitioner movement is in the habit of
speaking against Indian Constitution and various cases
are registered in various district's and is pending.
If permission is granted there will be a law & order
problem and permission sought for his rejected."

6. Permission has been sought for is to conduct a public
meeting on 07.04.2019 at 5.00Pm at VKK Menan Road, Near Jeya
Bakery, Siddhapudur, Coimbatore City. Date for which permission
sought for, is over. Even taking for granted that interference
is called for, inasmuch as the date had already expired, no
purpose would be served in setting aside the order, on merits.

7. Therefore, without going into the aspect as to whether the order impugned can be justified or not for the reasons stated therein, we permit the petitioner to make a fresh application to the concerned and on receipt of the same, pass orders in accordance with law.

8. Writ petition is dismissed. No Costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ars

To

1. The Chief Electoral Officer,
Public (Election) Department,
Secretariat, Fort St. George,
Chennai.

2. The Assistant Commissioner of Police,
In Charge Officer,
No.20, Coimbatore Parliamentary Constituency,
Coimbatore.

+1cc to Mr.E.Vijay Anand, AdvocateSr.35153

सत्यमेव जयते

W.P.No.10993 of 2019
and WMP No.11424 of 2019

WEB COPY

rsi[col]
srg 11/04/2019