

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 08.05.2019
CORAM
THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

W.P.No.14038 of 2019

K.Aarimuthu

.. Petitioner

Vs.

The Inspector of Police,
Polur Police Station,
Polur Town
Thiruvannamalai District.

.. Respondent

Prayer : This petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent to permit and provide protection for conducting music, dance and Cooivarukkum festival from 20.05.2019 and 21.05.2019 in SRI DHANDU MARIYAMMAN KOVIL at Murugapadi Village, Polur Taluk, Thiruvannamalai District.

For Petitioner : Mr.R.Prathapan

For Respondent : Ms.M.Prabhavathi
Additional Public Prosecutor

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus to direct the respondent to permit and provide protection for conducting music, dance and Cooivarukkum festival on 20.05.2019 and 21.05.2019 in SRI DHANDU MARIYAMMAN KOVIL at Murugapadi Village, Polur Taluk, Thiruvannamalai District.

2. By consent, the writ petition itself is taken up for final disposal.

3. The petitioner averred that he along with the villages are belong to Murugapadi, Village and in their village, there is a temple called "Sri Dhandu Mariamman Koil. Sri Dhandu Mariamman Koil festival is scheduled for two days and there is a proposal to conduct music and dance programme on 20.05.2019 and also to conduct Cooivarukkum festival on 21.05.2019. With regard to the same, the petitioner has submitted a representation seeking permission to the respondent. Since there was no response from the respondent, the present writ petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that this Court repeatedly directs the police officials to grant permission to conduct music and dance programme and other related programmes with certain conditions. Accordingly, he prayed for appropriate orders.

6. The learned Additional Public Prosecutor appearing for the respondent submitted that if the petitioner is allowed to conduct music and dance programme, there will be a law and order problem. Therefore, this writ petition is liable to be dismissed.

7. It is relevant to rely on the order passed by the Division Bench of this Court dated 10.07.2018 made in W.P.(MD) No.14491 of 2018, where in, this Court has held as follows:

"3. In M.Velmurugan V. The Superintendent of Police, on 24.01.2018. In passing orders in W.P.(MD) No.13440 of 2017, dated 20.07.2017, this Court had observed as follows:-

"3. We may at the very outset note that the celebrations pertain to Arulmighu Sankaranarayana Swamy Temple, Sankarankovil. It is a very ancient and renowned Temple. It is under the control of the Hindu Religious and Charitable Endowments Department. It is beyond dispute that celebrations in such Temples are customary in nature. It is not as if the writ petitioner is seeking to introduce some new practice. What is being traditionally held and conducted has to be necessarily followed. Therefore, we have no hesitation in allowing the writ petition as prayed for"

It is also relevant to note the notification dated 10.08.2017 in S.O.2555(E) by the Ministry of Environment, Forest and Climate Change, wherein, it has been stated as follows:

"3. In the principal rules, in rule 5, for sub-rule (3), the following shall be substituted namely:-

(3) Notwithstanding anything contained in sub-rule (2), the State Government may subject to such terms and conditions as are necessary to reduce

noise pollution, permit use of loud speakers or public address systems and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calendar year and the concerned State Government or District Authority in respect of its jurisdiction as authorised by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative."

Considering the above, this Court passed the following order in W.P.(MD) No.14491 of 2018, which reads as follows:

"7.This Court, taking into consideration the earlier order of this Court and that on earlier occasion, the respondents had not too much to complain of, directs the respondents to grant permission to conduct the "Light Music" and "Patti Mandram" upto 12, mid night, between 17.07.2018 to 28.07.2018. The submission of learned counsel for petitioner that the sound system will be operated within permissible decibel levels is recorded."

8. In furtherance to above, the Division Bench of this Court recently in W.P.(MD)Nos.17731 of 2018 and etc, batch, dated 10.08.2018, passed the following order:

"2. We are of the view that no public interest is involved in these Writ Petitions. We feel that the need to approach this Court would not have arisen, if only the respondent police considered the request of the petitioners within a reasonable time, i.e., at least two days from the date of receipt of representations. Thus, without expressing any opinion on the merits of the case, we direct the Inspector of Police/Sub-Inspector of Police concerned in all the Writ Petitions to consider and pass appropriate orders on the representations submitted by the petitioners within a period of two days. In the event of granting permission, the respondent police shall always impose any reasonable conditions, as has been imposed in the earlier occasions.

3. Considering the issue involved, which will be recurring in nature, we direct the

Inspector General of Police, South Zone and the Central Zone to issue appropriate directions in this regard to all the police officers concerned coming within their jurisdiction, who would be otherwise dealing with such cases, to take decisions within a period of two days from the date of receipt of representations from the petitioners so that the Courts will not be troubled.

4. It is brought to the notice this Court by Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.A.K.Baskarapandian, learned Special Government Pleader, that the Writ Petitions are being filed, after giving representations in the previous days.

5. We find considerable force in the said submission made by the learned Additional Advocate General. Our directions can never be implemented, if the petitioners rush to this Court on the very next day, after giving representations. Therefore, the persons, who seek permission to conduct cultural programme, are required to give representations at least two weeks before the proposed cultural programmes and thereafter, the directions, as given above, will have to be complied with by the police officer concerned."

9. Considering the above facts and circumstances of the case, the following directions are issued to the respondent:-

The respondent is directed to grant permission and to provide adequate police protection for the music and dance programme to be conducted on 20.05.2019 on the eve of Cooivarukkam festival in "Sri Dhandu Mariamman Koil in Murugapadi, Polur Taluk, Thiruvannamalai District, subject to the following conditions:

a) the music and dance programme in connection with a Festival in "Sri Dhandu Mariamman Koil in Murugapadi, Polur Taluk, Thiruvannamalai District, scheduled to be held on 20.05.2019 should be completed between 6.00 and 10.00 p.m., and Cooivarukkum festival on 21.05.2019.

(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 music and dance programme should not 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, if 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.

10. It is open to respondent police to put any further restrictions or to impose any conditions purely in the interest of preserving public order and tranquility. There can be a total ban for putting up any Flex Boards representing any community.

11. This writ petition is allowed with the above observations and directions. No costs.

Sd/-

Assistant Registrar/Vacation Officer

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Polur Police Station,
Polur Town,
Thiruvannamalai District.

2. The Public Prosecutor
High Court, Madras.

+1cc to Mr.R.Prathapan, Advocate sr.43369

W.P.No.14038 of 2019

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