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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. [MD] No. 7794 of 2019

and

W.M.P. [MD] No. 6188 of 2019

Theni Maavata Bus Urimayalar Sangam,
Rep. by its President,
P.P.S. Murugesan,
Reg. No. 186/97,
Kambam Road,
Thenkarai,
Periyakulam - 625 601.
Theni District.

: Petitioner

Vs.

1. The District Collector,
Theni District,
Theni.
2. The Superintendent of Police,
O/o. The Superintendent of Police,
Theni District,
Theni.
3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Theni,
Theni District.
4. The Regional Transport Officer,
O/o. The Regional Transport Office,
Theni,
Theni District.
5. The Inspector of Police,
Veerapandi Police Station,
Theni,
Theni District.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to permit the buses plying through the Veerapandi bye pass road (NH 183) situated adjacent to the Veerapandi Village, Theni District



during the Chittirai festival to be conducted during the Tamil month of Chittirai in respect of Arul Migu Veerapandi Kowmariyamman temple within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s. Ajmal Associates
For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The instant Writ Petition has been filed by Theni Maavata Bus Urimaiyalar Sangam, a society registered under the Societies Registration Act, seeking for a Mandamus to direct the respondents to permit the buses plying through the Veerapandi bye-pass road, NH-183, situated adjacent to the Veerapandi Village, Theni District, during the Chittirai festival to be conducted during the Tamil month of Chittirai at Arul Migu Veerapandi Kowmariyamman Temple.

2.It is the case of the petitioner association that their members are private bus owners who are operating buses through Veerapandi Village, Theni District. It is their case that during Chittirai festival conducted during the Tamil month of Chittirai, at Arul Migu Veerapandi Kowmariyamman Temple, the buses are being diverted and not allowed to operate through the road in which the temple is located at Veerapandi Village. This being the case, the petitioner addressed a letter dated 04.02.2019, to the first respondent requesting permission for their members to operate their buses in the bye-pass road during the eight day period of the Chittirai festival of Arul Migu Veerapandi Kowmariyamman Temple.

3.According to the petitioner, the first respondent on receipt of the representation made by them, has also addressed a letter dated 14.02.2019, to the respondents 2 to 5 seeking for a detailed report in respect of the permission sought for by the petitioner association by their representation dated 04.02.2009. It is the case of the petitioner association that till date, no decision has been taken by the respondents regarding the permission sought for by the petitioner association for their members to operate their buses in the bye-pass road at Veerapandi Village, during the period of the Chittirai festival at Arul Migu Veerapandi Kowmariyamman Temple. Since there was no response, the instant writ petition has been filed.

4.A counter affidavit has also been filed by the fourth respondent wherein they have relied upon Section 115 of the Motor Vehicles Act, 1988, which gives them power to restrict the use of vehicles, if they are satisfied that it is necessary in the interest of public safety or convenience or because of the nature of any road or bridge by issuance of a notification in the official Gazette. According to them, exercising the said power and for the convenience

devotees
Veerapandi

6. Section 115 of the Motor Vehicles Act, 1988, reads as follows:

The State Government or any authority authorised in this behalf by the State Government, if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under Section 116 at suitable places:

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction."

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report. Admittedly, no decision has been taken pursuant to the letter dated 14.02.2019 addressed by the first respondent and no report has been submitted to the first respondent.

8.As seen from Section 115 of the Motor Vehicles Act, even though power is vested with the State Government or any authority authorised by the State Government, to restrict the usage of vehicles in a specified road, the said restriction can be imposed only in the interest of public safety or convenience or because of the nature of any road or bridge and that too only by a notification in the official Gazette. In the instant case, till date, no notification has been issued. Even under the proviso to Section 115 of the Act, for restricting the movement of vehicles, local publicity as the circumstances may permit shall be given of such prohibition or restriction.

9.In the instant case, it is an admitted fact as seen from the counter affidavit filed by the respondents before this Court that there is no reference to any local publicity given by the respondents for prohibiting or restricting the movement of vehicles in the bye-pass road at Veerapandi Village, during the period of the Chittirai festival at the aforementioned temple. It is also not clear as to what type of vehicles, the respondents are restricting or prohibiting from plying in the bye-pass road at Veerapandi Village.

10.Admittedly, the first respondent has addressed a letter dated 14.02.2019 to the remaining respondents to take appropriate decision with regard to the permission sought for by the petitioners association to operate their buses in the bye-pass road at Veerapandi Village during the Chittirai festival at Arul Migu Veerapandi Kowmariyamman Temple. It is also an admitted fact that till date, no decision has been taken by the respondents regarding the permission sought for by the petitioner association. Considering the fact that the Chittirai festival of the temple is scheduled to take place very shortly, a decision will have to be taken by the respondents before the commencement of the said festival.

11.In such circumstances, this Court directs the first respondent to convene a meeting of all the stake holders including the petitioner's association and after giving adequate opportunity to the petitioner association as well as other stake holders, pass final orders on the representation dated 04.02.2019 submitted by the petitioner seeking permission of their buses to operate in the bye-pass road (NH-183) situated adjacent to the Veerapandi Village, Theni District during the Chittirai festival to be conducted during the Tamil month of Chithirai at Arul Migu Veerapandi Kowmariyamman Temple, on or before **05.05.2019**.



12. With the aforesaid direction, the Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

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// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Collector,
Theni District, Theni.
2. The Superintendent of Police,
O/o. The Superintendent of Police,
Theni District, Theni.
3. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Theni, Theni District.
4. The Regional Transport Officer,
O/o. The Regional Transport Office,
Theni, Theni District.
5. The Inspector of Police,
Veerapandi Police Station,
Theni, Theni District.

+1cc to M/S.AJMAL ASSOCIATES, Advocate, SR.No.63785

W.P. [MD] No. 7794 of 2019
29.04.2019

MR

KK/SAR/30.04.2019/ 5P- 7C

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