



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
07.08.2019	09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.17120 of 2019
and W.M.P. (MD) Nos.13652, 13654 and 13655 of 2019

Dr.S.Mariyappan

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep. By its Additional Chief Secretary to Government
Tourism Cultural and Endowment Department
St. George Fort, Secretariat
Chennai.

2.The Commissioner,
Directorate of Art & Culture,
2nd Floor, Tamil Development Campus,
Egmore, Chennai.

3.The Member Secretary,
Tamil Nadu Eyal Isai Nataga Mandram
No.31 P.S.Kumarasamy Raja Salai
Raja Annamalaipuram
Chennai - 28.

4.T.Soma Sundaram
Member Gramiya Kalai (Folk)
Tamil Nadu Eyal Isai Nataga Mandram
No.31 P.S.Kumarasamy Raja Salai
Raja Annamalaipuram
Chennai.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the 1st respondent in his proceedings in G.O.(Ms) No.31 Tourism Cultural and Endowment Department dated 28.02.2019 and quash the same as illegal.



For Petitioner

:Mr.M.Ajmal Khan
Senior counsel
for M/s.Ajmal Associates

For Respondents

:Mr.P.H.Aravind Pandian
for R1 to R3
Additional Advocate General
assisted by Mr.P.Kannithevan
Additional Government Pleader
Mr.T.Aswin Rajasimman for R4

ORDER

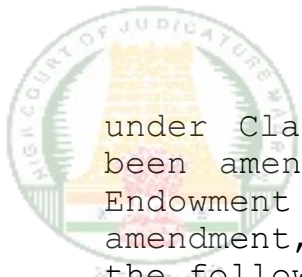
Challenging the proceedings of the first respondent in G.O.Ms.No.31 Tourism, Culture and Endowment Department dated 28.02.2019, this writ petition has been filed.

2. The relevant facts, which are required to be noticed for the disposal of this writ petition are as follows:

The petitioner is a Nadheswaram Artiste. He has performed at various stage programme in Tamil Nadu Eyal Isai Nadaga Mandram (in short "TNEINM") and at various functions and Temples for the past 35 years. The petitioner received Awards including "Kalaisudarmani" conferred by the Department of Art and Culture and he has been conferred with the Doctor of letters (Doctorate) by the International Tamil University, U.S.A., and also received certificates and Awards from various Associations and Tamil Sangams.

2.1. The TNEINM was established by the Government of Tamil Nadu as a Society registered under the Societies Registration Act 1860 and it is affiliated to Sangeetha Nadaka Academy, New Delhi. The TNEINM is having its own Constitution and Byelaws. Under Clause 10 of the Constitution, there has been a General Council consisting of 24 members, which includes a Chairman, a Treasurer and 11 persons to be nominated by the State Government and another 11 persons to be elected in accordance with the Rules framed by the Manram (TNEINM).

2.2. Under Clause 3 of the Constitution, various functions have been entrusted to the Manram, out of which, one of the important function is under Clause 3(11), by which, the Manram undertakes the work of awarding prizes and distinctions to and otherwise assist when necessary, individual Artistes of outstanding merit in the fields of Music, Dance, Drama and Films. Since the TNEINM was established in the year 1956 and its name, which was originally called as "Tamil Nadu Sangeetha Nataga Sangam", was subsequently changed as "Eyal Isai Nataga Mandram" from October 1973. While so, the composition of General Council



under Clause 10 of the Constitution as referred to above, has been amended by issuance of G.O.Ms.No.22 Tourism Culture and Endowment (CA2) Department, dated 19.01.2015. As per the said amendment, the Clause 10 of the Constitution has been amended to the following effect:

"10.General Council:

** (a) The General Council shall consist of the following twenty-five members, namely:

(1)Chairman

(2)Vice-Chairman

(3)Treasurer

(4)Twenty two persons shall be nominated by the State Government from all the fields, that is Eyal, music including Harikatha Kalakshepam, dance, drama, folk arts and films and may include artistes, connoisseurs and representatives of organisations in the field of fine arts. Among them, the Member-Secretary of the Manram and a representative of the Finance Department will find a place."

2.3. By virtue of the said amendment, which made a major change in Clause 10 of the Constitution, 50% of the 22 members to be elected by election hitherto has been done away and all the 22 persons shall be nominated by the State.

2.4. It is to be noted that, before issuance of the said G.O., a writ petition was filed before the Principal Bench of this Court in **W.P.No.7867 of 2014**, seeking for a writ of mandamus directing the Government as well as the Manram to conduct election for the General Council of the Manram, in the matter of **Vazhuvoor Ravi v. State of Tamil Nadu represented by its Secretary to Government, Tourism, Art and Culture Department, Chennai 09 and two others.**

2.5. During the pendency of the said writ petition, it seems that, the said G.O.Ms.No.22, dated 19.01.2015 was issued. Therefore, taking note of the said issuance of the G.O., this Court, by order dated 09.02.2015, has passed the following order, dismissing the said writ petition:

"2.The learned Special Government Pleader appearing for the respondents submitted that already the Government has issued G.O. Ms.No.22, Tourism, Culture and Hindu Religious Department dated 19.01.2015 whereby amendments were brought to the constitution of the Tamil Nadu Eyal Isai Nataka Manram. By virtue of the amendment, the Government decided not to elect the members to the General council by conducting an election by accepting the proposals sent by the second



respondent. In the light of the above Government Order, the relief of Mandamus sought for in this petition cannot be granted. The writ petition is dismissed. No costs. Consequently, M.P.No.1 of 2014 is closed."

WEB COPY

2.6. Thereafter, yet another writ petition was filed in W.P.No.4688/2015 challenging the amendment made in the Constitution of the Manram through the said G.O.Ms.No.22, Tourism, Culture and Endowment Department dated 19.01.2015 and the said writ petition has been pending before the Principal seat of this Court.

2.7. Thereafter, Government issued yet another G.O. in G.O.Ms.No.137 Tourism, Culture and Religious Endowment (CA2) Department dated 14.06.2017, by which, the Government nominated 22 persons for the General Council and 10 persons for Executive Council. Challenging the said G.O.Ms.No.137, yet another writ petition was filed before the Principal seat of this Court in W.P.No.22018 of 2017, where, a learned Judge of this Court, at Principal seat, granted an interim order on 19.03.2018 to the following effect:

"3. Accordingly, a writ petition in W.P.No.4688 of 2015 has been filed challenging such amendment wherein interim prayer has also been made to stay the operation of such amendment. It appears that notice has been received in the interim application as well as in the writ petition by the respondents. But, before the interim prayer was taken up, the respondents, pursuant to the amendment nominated the members to the council vide G.O.Ms.No.137 (Tourism Culture and Endowment (C2) Department, dated 14.02.2017 and they have already been discharging their functions. The same however has been challenged in the writ petition with a prayer to quash the same. This writ miscellaneous petition is filed to stay the operation of the said order. Considering the fact that the persons have already been nominated, pursuant to the amendment of the constitution and taken charge and discharging their function, this Court is of the view that it would be inappropriate to dislodge them from office by interim order, pending disposal of the writ petition. However, considering the fact that very same amendment is challenged, though this Court is not inclined to grant aforesaid prayer, observe that newly constituted General Council, pending disposal of the writ petition,



shall not take major policy decision touching the provisions of the constitution of the Society, without the leave of this Court."

That writ petition also is pending before the Principal seat.

2.8. While that being the position, the State Government, through the Tourism, Culture and Religious Endowment (Ca2) Department, issued a G.O. in G.O.Ms.No.31 dated 28.02.2019, whereby, it announces the Award of "Kalaimamani" to be conferred on various Artistes in various Art fields for the years 2011 to 2018. In the said G.O., as per the Annexure attached with the said G.O., 201 Artistes from various field have been declared to be conferred the Kalaimamani Award for various years from 2011-2018.

2.9. In order to confer the said Kalaimamani Awards, the Award giving function has been proposed by the respondents to be conducted on 13.08.2019, at Chennai, for which, arrangements have already been commenced.

2.10. At this juncture, the petitioner, being one of the reputed Nadheswara Artiste, has filed this writ petition with some illustrative allegations against at least 5 proposed Awardees, whose name have been declared for conferring the Award of Kalaimamani in the said G.O.Ms.No.31 dated 28.02.2019, stating that, the said announcement of Award of Kalaimamani to various Artistes under the said G.O. by the Government, has not been in consonance with the prescribed norms, as per the procedure hitherto adopted and therefore, according to the petitioner, the entire selection and announcement of Awards through the impugned G.O., is tainted with *mala fide* and various other unjustifiable reasons and in view of the same, the entire announcement and declaration made by the Government through the said impugned G.O., awarding Kalaimamani to 201 Artistes from various fields have to be quashed. Accordingly, the present writ petition has been filed challenging the G.O.Ms.No.31 dated 28.02.2019 with the aforesaid prayer.

3. Mr.M.Ajmal Khan, learned Senior Counsel, for the petitioner has raised two main grounds:

The first ground, according to the learned Senior counsel, is that, when the very Constitution has been amended by issuance of G.O.Ms.No.22 and consequently further Government Order in G.O.Ms.No.137 dated 14.06.2017 was issued nominating 22 members to the General Council and both the actions on the part of the Government, since have been questioned before this Court in separate writ petitions and those writ petitions are pending, where an interim order has been passed by order dated 19.03.2018, wherein, specifically it has prohibited the respondents that, pending disposal of the writ petition, they shall not take any major policy decision touching the provisions of the Constitution



of the Society, without the leave of the Court, the respondents, ie., the Manram as well as the State Government, in violation of the said order passed by this Court, has taken a major decision to conferring Kalaimamani Awards for more than 200 Artistes from various fields for the years 2011-2018.

WEB COPY

3.1. In this context, the learned Senior Counsel would submit that, the Constitution of the Manram is the basis, under which or on which only, the Manram has to function and under Clause 3(11), the Award of prizes and distinctions has been categorised as one of the major function of the Manram, hence such function cannot be undertaken by the Manram and the recommendation made by the Manram shall not be considered and accepted by the State Government, unless the leave of the Court is given in this regard.

3.2. The learned Senior Counsel would further submit that, apart from the aforesaid violation on the part of the respondents, who proceeded to declare the Award of Kalaimamani to various persons, unmindful of the orders of this Court, referred to above, various other norms and procedures to be followed before conferring the Awards to eligible persons/Artistes have not at all been followed. In this context, the learned Senior Counsel pointed out that, though the Artistes more than 40 years old alone shall be considered as experienced Artistes for the purpose of conferring the Award, some of them even below the age of 30 or between 30 and 40 had been conferred now.

3.3. That apart, the learned Senior Counsel would further point out that, the deceased persons are not entitled to get the Award, however, at least two dead persons have been named for conferring the Award of Kalaimamani, which is also against the norms.

3.4. That apart, three other Awardees names have been specifically given by the petitioner in the affidavit filed in support of the writ petition, where specific allegations have been made stating that, though the individuals have been the performer of some different art, they have been now declared to be an Awardee for a different art and therefore, the materials, which ought to have been considered, seems to have not been considered and the materials, which ought not to have been considered, seems to have been considered in taking a decision by the Manram, while finalising the names of the Awardees before recommending the same to the Government for announcement and therefore, on these grounds also, the entire process of selection of Awardees undertaken by the Manram is faulted or flawed, the learned Senior counsel contended.



4. On the other hand, Mr.P.H.Aravind Pandian, learned Additional Advocate General appearing for the respondents 1 to 3, on instructions and by relying upon the counter affidavit filed by the third respondent, has made submissions.

WEB COPY

5. The learned Additional Advocate General has first made submissions to the effect that, the official respondents have not violated the order passed by this Court made in W.P.No.22018 of 2017 dated 19.03.2018. He submits that, though the operation of the G.O.Ms.No.137, was challenged, whereby 22 members of the General Council were nominated in exercise of the power conferred on the Government through the amendment made through G.O.Ms.No.22 dated 19.01.2015, this Court had not given any stay of either of the said Government Orders. But only observed that, the newly constituted General Council, pending disposal of the writ petition, shall not take major policy decision touching the provisions of the Constitution of the Society, without the leave of the Court.

6. In this context, the learned Additional Advocate General would submit that, insofar as the provision relates to the Constitution of the Society, it has not been touched and there has been no change in the Constitution of the Society, after the issuance of G.O.Ms.No.22 and the nomination of 22 members for the General Council through G.O.Ms.No.137 also had been taken note of by this Court in the said order dated 19.03.2018 and after having taken note of the same only, the said observation was made and pursuant to the said observation, the restriction on the official respondents from altering, changing or modifying or meddling with the Constitution is very well in force and therefore, that area has not been touched by the respondents by strictly following the orders passed by this Court.

7. The learned Additional Advocate General would further submit that, insofar as the conferment of Kalaimamani Award is concerned, the same has not been awarded since 2011 and therefore, the Manram decided to evaluate the merits of various applicants, who made applications at various point of time for all these years for conferment of the said Award and accordingly, after due deliberations and discussions in the General Council of the Manram, they made recommendations in respect of each of the Awardees.

8. He would also submit that, after having considered the recommendations of the Manram, the Government also through their sources have verified such recommendations in respect of each of the Awardee and finally accepted such recommendations made by the Manram and issued the present G.O., which is impugned herein,



under which, 201 Awardees from various fields of Art have been conferred the Kalaimamani Award and the Award giving function has already been fixed to be held on 13.08.2019 at Chennai, where, the Chief Minister of the State and other dignitaries are participating and all arrangements to conduct the function have already been completed.

9. In respect of the illustrative allegations made against five of such Awardees is concerned, the learned Additional Advocate General, by relying upon the specific averments made in respect of such allegations made by the petitioner, in the affidavit, against five such Awardees, had submitted that, out of the five, in respect of two persons, namely, one Professor K.Sekar and one Sri Sambandha Odhuvar, both of them already expired and therefore, the said factor, since was brought to the notice of the Government, their names have been deleted from the final list of Awardees. Regarding other three persons, namely, one Govindarajan, one A.K.B.Kathirvelu and one A.P.Iyyavu are concerned, the learned Additional Advocate General taken this Court to the averments made by the third respondent in the counter affidavit regarding the expertise of the individuals in their respective field and submitted that, accordingly, they were considered.

10. Insofar as the further allegations made by the petitioner that, very young people below the age of 40 are also conferred with the said Kalaimamani Award, which is against the norm, the learned Additional Advocate General submitted that, there is no hard and fast rule that, those who are under 40 years should not be considered for such Award and in this context, the learned Additional Advocate General has pointed out the averments made in Paragraph No.8 of the counter affidavit of the third respondent that, for one Mr.U.Srinivas, popularly known as "Mandalin Srinivas" was awarded Kalaimamani title for the year 1991, when he was at the age of 22 years, as he born only on 1969 and further submitted that, it depends upon the individual calibre and expertise in a particular field of Art, which would alone be the matter and the age shall not be the criteria and therefore, the said allegation also, according to the learned Additional Advocate General, is untenable.

11. By making the aforesaid submissions, the learned Additional Advocate General would submit that, out of the 201 Awardees, allegations have been made only against five Awardees, out of the five, two have already been dropped, since they are no more and the remaining three are concerned, justifiable reasons for selecting them to confer the Award in the particular field, have been satisfactorily given and therefore, the challenge made by the petitioner against the entire G.O., announcing the Kalaimamani Award to more than 200 Artistes, fails, hence the



writ petition has to be dismissed.

12. I have also heard Mr.T.Aswin Rajasimman, learned counsel for the fourth respondent, who is none other than one of the member of the General Council of the Manram in the category of Member (Folk Art). The learned counsel for the fourth respondent, on instructions, made oral submissions that, the fourth respondent, though was one of the member of the General Council and he also participated in the deliberations of the General Council of the Manram for selecting and recommending the Kalaimamani Awardees for the years 2011-2018, the views expressed by the fourth respondent was not accepted or the dissent view expressed specifically by the fourth respondent against some of the names during discussion was not at all taken into account. In this regard, the learned counsel submits that, there is no mechanism to record the dissent of any member like, the fourth respondent, the dissent of the fourth respondent could not be recorded in writing and therefore, the General Council of the Manram took it for granted stating that, the fourth respondent also signed in the proceedings, making recommendations to the Government, in respect of the selected persons for the conferment of Awards.

13. I have considered the aforesaid submissions made by the respective learned counsel for the parties and have perused the materials placed before this Court.

14. The first and foremost ground raised by the petitioner to assail the import of the G.O. impugned herein is that, the recommendation made by the Manram for the conferment of Kalaimamani Award for the year 2011-2018 is one of the major policy decision touching upon the Constitution of the Manram and since the Manram and the Government have been prohibited by the orders of this Court dated 19.03.2018 made in W.P.No.22018 of 2017, in violation of the said order of this Court, the respondents have acted upon and therefore, the entire exercise, which culminated in the impugned order announcing the Kalaimamani Award to more than 200 Awardees for the years 2011-2018 is vitiated and therefore, the same shall be quashed.

15. In order to analyse or to meet the said prime ground raised on behalf of the petitioner by the learned Senior Counsel, the very order passed by this Court, dated 19.03.2018, which is extracted hereinabove, has to be looked into.

16. In the entire order dated 19.03.2018, the learned Judge had not granted any prohibitory order or stay, as has been sought for by the petitioner in the said writ petition. But, at the same time, the learned Judge has made an observation at the last few lines of the said order to the context that, considering



the fact that, the very same amendment was challenged and though this Court was not inclined to grant the aforesaid prayer, ie., prayer of grant of stay, observed that, newly constituted General Council shall not take major policy decision touching the provisions of the Constitution of the Society without the leave of the Court.

17. In that observation, the newly constituted General Council was injuncted or prohibited from taking any major policy decision touching the provisions of the Constitution of the Society.

18. Which means, major policy decision not touching the provisions of the Constitution of the Society can very well be taken and in this regard, whether the decision taken by the Manram to make a recommendation to the State Government for announcement of names of Awardees of Kalaimamani, is a major policy decision touching the provisions of the Constitution of the Society or not, has to be analysed.

19. If we analyse Clause 3 of the Constitution, several important functions have been entrusted with the Manram, which are, either powers or functions of the Manram. Among various such powers and functions, sub clause 11 of Clause 3 empowers the Manram to award prizes and distinctions to individual Artiste on outstanding merit in the field of Music, Dance, Drama and Films. Assuming that, if G.O.Ms.No.22 was not issued and amendment was not brought into the Constitution of the Manram, the composition of the General Council would have been as per the original Clause 10 of the Constitution, which means there will be 24 members, out of 24, one shall be Chairman and another shall be Treasurer and 50% of the remaining 22 members have to be nominated and the remaining 50% have to be elected. Had such a combination or composition of General Council been in office, even then, the function under Clause 3(11) of the Constitution to Award prizes and distinctions would have been undertaken by the Manram. After the amendment came in through G.O.Ms.No.22, the method of electing 50% of the members of the General Council has been done away and entire members ie., total 22 would be nominated by the Government.

20. Therefore, the present General Council consist of $22 + 3 = 25$ also is entrusted with the function as enumerated under Clause 3 of the Constitution and therefore, accordingly, the important function of recommending the Awardees for Kalaimamani also is undertaken by the Manram under Clause 3(11) of the Constitution. Therefore, there is no distinction between the General Council prior to the amendment through G.O.Ms.No.22 and the General Council, as of now, ie., after amendment through G.O.MS.No.22 inasmuch as undertaking the function or exercising



the power under clause 3(11) of the Constitution.

21. Only in this context, the learned Judge, in the said order, dated 19.03.2018, has stated that, there should not be any major policy decision touching the provisions of the Constitution of the Society without the leave of the Court. It means that, if at all the Government or the Manram wants to make any change or modification in the Constitution of the Society, especially, the provisions of the Constitution of the Society, only with the leave of the Court, it should venture into such alteration, change or modification. Therefore, the said restriction observed by this Court in the said order dated 19.03.2018 cannot be construed that, the General Council has been completely restrained from exercising their functions and powers, as has been enumerated and vested in them under Clause 3 of the Constitution. Therefore, this Court is of the view that, the first and foremost ground raised by the petitioner by citing the orders of this Court dated 19.03.2018 against the impugned Government order, cannot be countenanced, as such a ground is not available to the petitioner, in view of the import of the observation made by this Court in the said order.

22. Now, we can turn into the specific allegations made by the petitioner against some of the Awardees numbering five, as has been stated in the affidavit of the petitioner.

23. In this context, the petitioner has made allegations against five persons in his affidavit which reads thus:

S.No.	Artist Name	Remarks
1	Mr.Govindaraj (2018)	Award given for "Kokallikttai"Attam. But he actually performs "Marakkalaatam"
2	Prof.K.Sekar (2012)	Died
3	Mr.M.Sambandha Oohduvar (2017)	"Died
4	Mr.A.K.P.Kathirve lu (2015)	Award given for "Iyatramil Kavingar" but he actually perform as "Stage Performer
5	Mr.A.P.Ayyavu	Award given for "Nadaswaram"but actually he performs "Nayandi Mela Nadaswaram



24. Out of these five persons, S.Nos.2 and 3, namely, Professor K.Sekar and Mr.M.Sambandam Odhuvar are no more and after coming to know the fact that, these two persons already expired, the respondents deleted their names in the final list of Awardees and this has been specifically stated in the counter affidavit of the third respondent and the relevant portion is extracted hereunder:

"9.(b) Prof. K.Sekar - (2012) his wife Mrs.Uma Sekar, in her letter dated 12/3/2019 intimated that Mr.Sekar was passed away on 10/7/2015. His name has been removed from the final list of awardees.

....

(c) Mr.M.Sambanda Odhuvar - his grant son Thiru Ganesh Desikar, intimated that Mr.M.Sambanda odhuvar has passed away on 27/12/2012. His name has been removed from the final list of awardees."

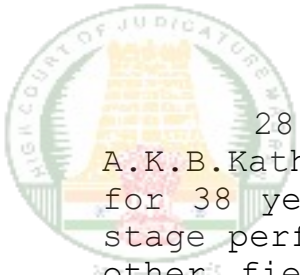
25. Therefore, there can be no quarrel on those two persons that, the petitioner's allegation that, the Artistes were selected for conferment of Kalaimamani Award Posthumously, which is against the norm, has been redressed.

26. In respect of other three persons, namely, one Mr.Govindarajan, one Mr.A.K.B.Kathirvelu and one Mr.A.P.Iyyavu are concerned, the import of allegation made by the petitioner and the defence given by the respondents are examined.

27. In the case of Mr.A.K.B.Kathirvelu is concerned, the allegation was that, though he himself declared to be a stage performer in the letterhead of him, he has now been conferred with the Kalaimamani Award for his contribution to "Iyattramil" (இயற்றமிழ்) as "Iyattramil Kavignar" (இயற்றமிழ் கவிஞர்). In order to meet this allegation, the third respondent, in his counter has stated the following:

"9. (d) Mr.A.K.B.Kathirvelu - 2015 -

It is seen from the records that, he has written number of books and articles on different topics during his career spread over about 38 years, thus exhibiting his proficiency in Iyal Tamil. Some of the books titled as Kargil kaviangal, Nesam Maranthom, Kalaikalum Kalaigargaluk, Avasara kaditham, pugzah malai etc., He has also written short essays on many topics. Though he is proficient in other art fields also, his name was considered for Iyatramiz and accordingly, he has been selected."



28. On perusal, it comes to know that, the said A.K.B.Kathirvelu had written number of books on different topics for 38 years. Therefore, he cannot to be confined only to the stage performer, as beyond which, he seems to have experienced in other field, ie., Tamil Literary field (இயற்றமிழ்), hence this Court feels that, the said allegation of the petitioner made against the said individual cannot be accepted.

29. Like that, insofar as Mr.A.P.Iyyavu is concerned, the allegation was that, he may be an expert in the field of Naiyandi Mela Nadhaswaram, however, he has been chosen to confer Kalaimamani for the field of Nadhaswaram for the year 2012.

30. In this context, I have perused the materials placed before this Court by the respondents especially on the said individual, including the application and the supporting materials filed along with that application.

31. Government of Tamil Nadu has given Identity Card to the said individual, which quotes that, his field of Art is Nadhaswaram and his experience was 45 years. That apart, various organisations in the field of Art and Culture had given certificates to the individual and lot of photographs also have been annexed by the individual, which suggest or disclose that, he had been performing the Nadhaswaram for several years at various forum. One of the Kalaimamani Awardee, one Mr.Sangili Murugan had given a detailed letter about this individual stating that, he had been associated with some feature film in Tamil and considering the expertise of the individual in the field of Nadhaswaram, a renowned Actor in his Film not only used the individual, but also, permitted him to perform his Nadhaswaram performance as a solo event at the time of releasing of the Music CD of the Film.

32. Apart from that, the individual seems to have participated in Republic Day function and also functions organised by Tourism and Culture Department and District level functions, various temples and other cultural organisations.

33. In all these documents, he has been considered only as exponent and expert in Nadhaswaram, ie., Nadhaswara Kalaigarnar. Nowhere those documents suggest that, he is the performer of Naiyandi Mela Nadhaswaram. Therefore, this Court feels that, only based on that credentials submitted by the individual, namely, A.P.Iyyavu, his name could have been considered and recommended by the Manram to the Government for conferment of Kalaimamani Award to him under the category of "Nadhaswaram".

34. The remaining individual, namely, Mr.Govindarajan is concerned, the allegation is that, it has been announced the



award of Kalaimamani for his performance in "Kokkalikattai Attam", whereas, his performance is only in "Marakkal Attam".

35. In order to testify the said allegation, the materials submitted by the petitioner in the typed set are to be first looked into.

36. Infact, the Government issued G.O.Ms.No.115, Tourism and Culture Department, dated 12.06.2008, where, on the basis of a book issued by Eyal Isai Manram, titled "தமிழக நாட்டார் நிகழ்த்துக் கலைகள் - களஞ்சியம்", has included 100 such Folk Arts for the purpose of admitting or inducting the Artistes or Experts in such 100 different type of Folk Arts, as members of the Tamil Nadu Folk Arts Artistes Welfare Board.

37. In the said Government Order, ie., G.O.Ms.No.115, in S.No.43, this "Kokkalikattai Attam" has been mentioned and in S.No.87, this "Marakkal Attam" has been mentioned. Therefore, it is clear that, both the Arts are different from each other and it cannot be considered as one.

38. In the said book, referred to above, issued by the Manram, the following description has been given for Kokkalikattai Attam:

"மரத்தாலான நீண்ட கட்டைகளைக் காலில் கட்டிக் கொண்டு ஆடும் ஆட்டம் கொக்கலிக்கட்டை ஆட்டம் ஆகும். காலில் கட்டும் கட்டை, கொக்கு என்ற பறவையின் நீண்ட கால்களைப் போல் இருப்பதாலும், இந்தக் கால்கள் மரக்கட்டையால் ஆனதாலும் இது கொக்குக்கால் கட்டை ஆட்டம் என வழங்கப்படுகிறது. பேச்சு வழக்கில் கொக்கிலிக்கட்டை ஆட்டம் என்று அழைக்கப்படுகிறது."

39. Like that, in respect of the Marakkal Attam, the following description has been given:

"இது கரகாட்டத்தின் துணை ஆட்டமாகவும், இடைநிகழ்ச்சி ஆட்டமாகவும் நிகழ்கிறது. மரத்தால் ஆன காலைப் பாதங்களில் கட்டிக்கொண்டு ஆடுவது மரக்கால் ஆட்டம் ஆகும்."

40. Also, the Sangeetha Nataka Academy in a letter to the fourth respondent in connection with the nomination of nominee for the Awardees for the Sangeetha Nataka Academy for the year 2014, has given some eligibility conditions. Among various such conditions, only two are relevant, which are extracted herein:

"A person considered for an Award will ordinarily be above 40 years of age.

.....

Akademi Puraskar (Adademi Award) do not pertain to any single work or achievement but to significant and lasting contribution on a sustained basis over a period of time."



41. On the basis of this criteria, if we look at the candidature of the said Govindarajan as to whether he satisfies the eligibility to claim the Award of Kalaimamani in a particular field of Art, namely, "Kokkalikattai Attam", on perusal of the documents filed by the said individual Govindarajan along with his application to the Manram, though he had performed at various stages, nowhere, he has been considered as Artiste of "Kokkalikattai Attam", instead, he was only considered as Artiste of "Marakkal Attam". Moreover, his date of birth is only 24.10.1992, which means, as of now, he is at the age of 27. Within the 27 years, assuming that, from his school days, he has been practising this Marakkal Attam, whether, that would be enough to confer Kalaimamani Award in the context of the norms fixed by the Sangeetha Nadaka Academy, with which, the Manram got affiliated. Moreover, since Kokkalikattai Attam is a different Art and the same has been recognised by the State Government through the said Government Order referred to above, it cannot be equated with "Marakkal Attam". In this context, the reason given by the third respondent in his counter in respect of the candidature of Govindarajan is concerned, that "Marakkal Attam" and "Poikkal Kuthirai Attam" and "Kokkalikattai Attam" are almost similar in nature, is only a justification, for the sake of justification, therefore, this Court is not inclined to accept the same.

42. While making this observation, this Court is aware of the position that, Court is not an expert in any field, especially in the field like "Arts and Science", where normally, Court would depend expert opinion. Here, in the case in hand, on verifying all these documents submitted on the side of the petitioner as well as on the side of the respondents, which includes the materials supplied by the individual along with his application to the Manram, this Court feels that, certain norms have not been properly followed/considered, insofar as the said individual is concerned, as the recommendation to that effect made by the Manram does not have the acceptable justification.

43. It is also to be pointed out that, photo copy of the original notes for recommendations, made against each of the individual candidature, especially, the two individuals discussed hereinabove, have been filed by the official respondents. On perusal, this Court finds that, there is no date mentioned in such notes on recommendations. Be that as it may, since the said individual Govindarajan is 27 years old and the Sangeetha Nataka Academy has issued conditions stating that, the Awardee must be more than 40 years and the Manram is since affiliated with the said Academy, the said criteria, in the considered opinion of this Court, shall be *mutatis mutandis* apply to the third respondent Manram also. Therefore, on the ground of which also, as he is very young of 27 years, his candidature ought not to have been recommended by the Manram.



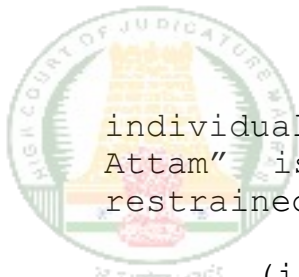
44. Moreover, no documents in support of the claim of the individual that, he is expert in "Kokkalikattai Attam" had been filed and whatever documents he filed only suggest that, he had performed "Marakkal Attam" and since both are different Folk Art as per G.O.Ms.No.115 dated 12.06.2008, this Court also is of the considered view that, such decision to confer Kalaimamani for the individual Govindarajan for "Kokkalikattai Attam" can be considered as flawed.

45. Though this Court has come to this conclusion against the said individual Govindarajan, before concluding the same, should he be heard or not also comes to the minds of this Court. The said individual was considered by the respondents, especially, the third respondent, who made recommendation in his favour to the Government, which has been accepted by the Government, before issuing the impugned G.O. The 3rd respondent has taken a decision to make such recommendation based on the request letter given by the individual along with supporting documents submitted by him. Those documents had been produced by the learned Additional Advocate General before this Court and on perusal of those documents along with additional documents submitted by the petitioner's side, in the context of the norms prescribed by the Sangeetha Nataka Academy as well as the Government of Tamil Nadu through the G.O.Ms.No.115 dated 12.06.2008, this Court has come to the said conclusion against the said individual Govindarajan. Therefore, even if he is before this Court, he cannot improve the case, as no additional materials, even if it is available with the said individual, cannot be taken into account now. Therefore, such a move is nothing but an empty formality. Hence, this Court decides to dispose this writ petition on the basis of the aforesaid discussions.

46. In view of the aforesaid discussions, this Court is inclined to pass the following order in this writ petition:

(i) The impugned order on the basis of the materials placed before this Court, cannot be termed to be an order tainted with *mala fide* on any irrelevant consideration. Therefore, the said order would be sustainable and can be acted upon;

(ii) However, insofar as the individual, namely, Govindarajan, who has been named for awarding Kalaimamani for Folk Art, namely, "Kokkalikattai Attam" is concerned, the criteria and the materials placed before this Court, claimed to have been considered by the Manram for recommending the name for such award, is not in consonance with the norms as well as the Government order and the prescription made by the Sangeetha Nataka Academy, in which, the Manram is affiliated. Therefore, the announcement of such Award of Kalaimamani to the said



individual Govindarajan for the year 2018 for "Kokkalikattai Attam" is hereby quashed. Therefore, the respondents are restrained from conferring such Award to the said individual;

(iii) Since the conferment of Award, prizes and distinctions to individual Artiste is one of the prime function of the Manram (TNEINM), such function, for the reason best known to them, have not been undertaken for the past eight years from 2011-2018. In this context, this Court wants to make an observation that, at least in future, let the Tamil Nadu Eyal Isai Nataka Manram consider the applications received by them from Artistes of various Art fields for conferment of Kalaimamani Award with due deliberations and discussions and make recommendations in time. This observation is made because, the Government through D.O. Letter No.474/94-1 dated 01.11.1995 directed the Eyal Isai Nataka Manram to strictly adhere to time frame for making recommendations for Kalaimamani Awards, according to which, the Awardees list would be announced by the Government every year on or before 30th June. If such an Award giving function is undertaken by the Manram and the State Government every year in time, the burden of considering 100s' of Artistes for such Awards, at one stretch, can very well be avoided.

47. With these observations and in terms of the paragraph No.46 (i) to (iii) above, this Writ Petition is disposed of. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar()

// True Copy //

Sub Assistant Registrar(CS)

RR

To

1.The Additional Chief Secretary to Government
State of Tamil Nadu
Tourism Cultural and Endowment Department
St. George Fort, Secretariat
Chennai.

2.The Commissioner,
Directorate of Art & Culture,
2nd Floor, Tamil Development Campus,
Egmore, Chennai.



3.The Member Secretary,
Tamil Nadu Eyal Isai Nataga Mandram
No.31 P.S.Kumarasamy Raja Salai
Raja Annamalaipuram
Chennai - 28.

+1CC TO MR.AJMAL ASSO., Advocate Sr. No. 81107

Pre Delivery order made in
W.P. (MD) No.17120 of 2019
and W.M.P. (MD) Nos.13652, 13654 and 13655 of 2019
09.08.2019

TR(09.08.2019) 18P 5C