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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.09.2019

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No. 19563 of 2019

Murugesan

... Petitioner

Vs.

1. The Superintendent of Police
Tirunelveli District
Tirunelveli

2. The Deputy Superintendent of Police
IUCAW Tirunelveli District(In Charge)
Cheranmahadevi
Tirunelveli District

3. The Inspector of Police
Mukkudal Police Station
Mukkudal
Tirunelveli District

... Respondents

Prayer : This petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the order dated 27.08.2019 passed by the 2nd respondent herein and quash the same and consequently directing the respondents to grant permission and protection to perform dance program (Aadal Padal) on 14.09.2019 of Sriman Ramasamy and Sri Mariyamankoil Temple situated at Maruthamuthur village, Alangulam Tk,Tirunelveli District.

For Petitioner : Mr.R.Mathava Selvam

For Respondents : Mr.R.Anandharaj

Additional Public Prosecutor

ORDER

This Petition has been filed for a Writ of Certiorarified Mandamus, to call for the records relating to the order dated 27.08.2019 passed by the 2nd respondent herein and quash the same and consequently directing the respondents to grant permission and protection to perform dance program (Aadal Padal) on 14.09.2019 of Sriman Ramasamy and Sri Mariyamankoil Temple situated at Maruthamuthur village, Alangulam Tk,Tirunelveli District.



3. The petitioner averred that he is one of the Koil committee member of the Maruthamuthur village and in their village, there is a temple called Sriman Ramasamy and Sri Mariyamankoil. It is a rich heritage and ancient temple and for the past few years, they are celebrating temple festival. During the temple festival, a cultural programme like Aadal padal programme is being conducted for the past few years. Likewise, in this year also, Sriman Ramasamy and Sri Mariyamankoil temple festival is scheduled from 08.09.2019 to 18.09.2019 and there is a proposal to conduct Aadal padal programme on 14.10.2019. Therefore, the petitioner submitted a representation to the second respondent, seeking permission to conduct Aadal padal programme on 14.10.2019. The second respondent, without considering the above circumstances, rejected permission to conduct Aadal padal programme for the reason that if they conduct Aadal padal programme, there will be a law and order problem. Hence, 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 respondents.

5. The learned counsel appearing for the petitioner would submit that this Court repeatedly directs the police officials to grant permission to conduct Aadal padal programme and other related programmes with certain conditions. Therefore, he prayed to quash the impugned order and prayed to grant permission to conduct Aadal padal programme on 14.10.2019.

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

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

8. Further it is seen that there was a dispute between three groups to conduct cultural program. One group headed by Nallaiah, another group headed by Poosaidurai and another group by youth members of the same village. In this regard already the second respondent referred the matter before the Revenue Divisional Officer, Chenranmahadevi under Section 107 Cr.P.C and the enquiry is under process.

9. Under these circumstances all the three groups namely one group headed by Nallaiah, another group headed by Poosaidurai and another group by youth members of the same village are directed to jointly approach the third respondent and seek permission and protection for conducting the cultural program. If all the three groups jointly approach the third respondent, the third respondent is directed to consider the same and pass order on merits and in accordance with law.



10. In view of the above decision rendered by this Court, the impugned order passed by the second respondent dated 26.08.2019 is hereby set aside and this writ petition stands disposed of. No costs.

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Sd/-

Assistant Registrar (Records)

/TRUE COPY/

Sub Assistant Registrar

To

1. THE SUPERINTENDENT OF POLICE
TIRUNELVELI DISTRICT
TIRUNELVELI
2. THE DEPUTY SUPERINTENDENT OF POLICE
IUCAW TIRUNELVELI DISTRICT (IN CHARGE)
CHERANMAHADEVI
TIRUNELVELI DISTRICT
3. THE INSPECTOR OF POLICE
MUKKUDAL POLICE STATION
MUKKUDAL
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.MATHAVASELVAM, Advocate (SR-86354[F] dated 12/09/2019)

W.P (MD).No.19563 of 2019
12.09.2019

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JM/13.09.2019/5P/6C