



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.11.2019

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P (MD) .No.23728 of 2019

Chockalinga Thevar

.. Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District.

2.The Deputy Superintendent of Police,
Sankarankovil,
Tirunelveli District.

3.The Inspector of Police,
Panavadalichathiram Police Station,
Tirunelveli District.

.. Respondents

Prayer : This petitioner is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents to grant permission for Musical Programmes (Orchestra) in connection with the celebration of Temple festival of Kalliamman Kovil South Panavadali village Tirunelveli District on 11.11.2019 from 7 PM upto 1 AM.

For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.R.Anandharaj, APP

ORDER

This Writ Petition has been filed for a Writ of Mandamus, to direct the respondents to grant permission for Musical Programmes (Orchestra) in connection with the celebration of Temple festival of Kalliamman Kovil South Panavadali village Tirunelveli District on 11.11.2019 from 7 PM upto 1 AM.

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

3.The petitioner averred that he along with the villagers are belong to Panavadali village and in their village, there is a temple called "Kalliamman Kovil". It is a historic and auspicious temple and from the time immemorial, every year in November month, they are celebrating temple festival. During the temple festival, a cultural



programme like Musical Programmes (Orchestra) are being conducted for several years in a peaceful manner without any law and order problem. Likewise, in this year, there is a proposal to conduct temple festival on 11.11.2019, they have decided to conduct "Orchestra" in between 07.00 pm and 01.00 A.m. Therefore, the petitioner submitted a representation dated 23.10.2019 to the respondents, seeking permission to conduct "Orchestra" on 11.11.2019. However, till date, there is no progress on the side of the respondents. Hence, the present writ petition has been filed.

4. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

5. The learned counsel appearing for the petitioner would submit that this Court repeatedly direct the police officials to grant permission to conduct Orchestra programme and other related programmes with certain conditions. Therefore, he prayed to grant permission to conduct Orchestra on 11.11.2019.

6. The learned Additional Government Pleader appearing for the respondents submitted that if the petitioner is allowed to conduct Orchestra, 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-
the following shall be substituted namely:-



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(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 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.In the present case on hand, the petitioner submitted representation as early as on 23.10.2019 itself. It is very well in advance to the Orchestra. The above cited judgment squarely applies to the present case and the petitioner is entitled for the relief sought for. Accordingly, this writ petition is disposed of with the following directions:

"The third respondent is directed to grant permission and to provide adequate police protection for Orchestra programme to be conducted on 11.11.2019 during night time between 07.00 p.m and 12.00 midnight on the eve of Kaliyamman Kovil festival situated at Panavadali Village, Tirunelveli District, subject to the following conditions:

a)the Orchestra in connection with a Festival of Kaliyamman Kovil South festival situated at Panavadali Village, Tirunelveli District, scheduled to be held on 11.11.2019 should be completed before 12.00 midnight or within the time permitted by the respondent.

(b) double meaning words should not be used so as to spoil the minds of students and the youth;

(c) no speech, 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 Patti Mandram 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.

(j) the sound systems shall be operated within permissible decibel level.

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 tranquillity. There can be a total ban for putting up any Flex Boards representing any community.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Superintendent of Police,
Tirunelveli District.

2. The Deputy Superintendent of Police,
Sankarankovil, Tirunelveli District.

3. The Inspector of Police,
Panavadalichathiram Police Station,
Tirunelveli District.

+1 CC to M/s.R.J.KARTHICK, Advocate (SR-97165[F] dated 08/11/2019)

W.P (MD) .No.23728 of 2019
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