

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5893 of 2020

Arappor Iyakkam Trust
Rep. by its Managing Trustee
Jayaram Venkatesan
140A, Rukmini Lakshmipathy Salai,
Egmore, Chennai -600 008.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Secretary,
Home Department,
Fort St. George,
Chennai. - 600 009.

2. The Commissioner of Police,
The Greater of Chennai,
Vepery, Chennai - 600 007.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the impugned order letter No.235/S.B.II/2020 dated 06.03.2020 of the second respondent and direct the second respondent to permit the petitioner Arappor Iyakkam to conduct a peaceful one-day symbolic fast and protest on 15.03.2020 from 9 am to 5 pm at Valluvar Kottam with the use of public address system and shamiana to highlight issues of Corruption in Tamil Nadu. (Prayer amended as per the order of this Court vide order dated 13.03.2020 in W.M.P.No.7350 of 2020 in WP.No.5893 of 2020)

For Petitioner : Ms.Sudha Ramalingam

For Respondents : Mr.Natarajan,

State Public Prosecutor

Assisted by Mr.Mohammed Riyaz

Additional Public Prosecutor.

W R I T
O R D E R

This writ petition has been filed challenging the letter No.235/S.B.II/2020 dated 06.03.2020, of the second respondent and for subsequent direction to direct the second respondent to permit the petitioner to do one-day symbolic fast and protest on 15.03.2020 from 1 am., to 5 p.m., at Valluvar kottam.

2. The learned counsel appearing for the petitioner submitted that the petitioner is a non-governmental organization registered under Indian Trust Act. The petitioner is involved in various social activities for the benefit of general public and they are concerned about improving transparency and accountability with a view to ensure that the marginalised and weaker sections are able to get quality health services. She further submitted that the petitioner is also to take the issues of corruption by public representatives and enforcing rule of law in terms of government functioning. In this regard the petitioner decided to have one day symbolic fasting protest on 15.03.2020 at Valluvar Kottam. In pursuant to the decision, the petitioner sought for permission and police protection to their symbolic fasting protest held on 15.03.2020. On receipt of the same the second respondent raised queries by communication dated 28.02.2020. On receipt of the same by the reply on the same date ie., on 28.02.2020, explained all the queries and categorically mentioned about if any damages caused to the public property due to the peaceful protest, the convener of the Arappor Iyakkam is responsible for the happening at the protest. Even then the second respondent did not consider the representation and simply kept the petition pending. Therefore, the petitioner filed this writ petitioner for direction directing the second respondent to permit the petitioner to conduct peaceful only day symbolic fasting protest on 15.03.2020. While pending the writ petition, the second respondent rejected the representation of the petitioner by an order dated 06.03.2020. The impugned rejection order is now challenged under this writ petition.

3. Per contra, the learned Additional Public Prosecutor filed counter and contended that the following criminal cases reported around the Chennai for having committing offences as follows :-

Sl. No	Station	Cr.No. & Section and State of the Case	Nature of Offence
1.	Chennai City CCB	Cr.No.287/2017 U/s. 153, 505(i) (b) (c) IPC/ UI	Having committed offence by released a Video in social media depicting police officers and police department in a bad manner
2.	V.5 Thirumangalam P.S.	Cr.No.33/2019 U/s. 448, 294(a), 506(i) IPC/ UI	Having committed an offence tried to interrupt the sewage contract work carried out by the Metro Water contractor.

Sl. No	Station	Cr.No. & Section and State of the Case	Nature of Offence
3.	J.10 Chemmanchery P.S.	Cr.No.248/19 U/s. 153, 505(i) (b), 505 (i) (c) IPC/ UI	Having committed an offence trespassed into the Government property and Video graphed the construction of Chemmanchery Police Station and uploaded a video in Social Media alleging that the police station is being constructed illegally.
4.	K.5 Peravallur P.S.	Cr.No.355/19 U/s.465, 468, 471 IPC r/w 7(1) & 3 & 4 of State Emblem of India (Prohibition of Improper Use) Act 2005/UI	Without the permission of Police used the Tamil Nadu Police Emblem and planned to conduct an indoor meeting.
5.	E.1 Mylapore P.S.	Cr.No.3429/15 U/s. 427 IPC r/w 3 of TNPPDL Act / UI	Damaged the banner at opposite to Sankaran Hall, TTK Road, Alwarpet, Ch.
6.	CCB-1	Cr.No.87/2019 U/s 505(i) (b) (c) 505(2) IPC/ UI	Adverse speech video uploaded in face book against Chennai Corporation commissioner Tr.Karthikeyan IAS and State Government Officers.
7.	R.3 Ashok Nagar P.S	Cr.No.396/19 U/s. 290, 143 IPC r/w. 41 (6) CP Act / UI	Conducted awareness meeting without police permission.
8.	E.4 Abiramapuram PS	Cr.No.1188/15 U/s. 147, 341, 353, 447, 506(ii) IPC & 7(1) (a) CLA Act/PT	Lay siege agitation led by Aam Aathmi party in front of CM Residence.
9.	J.13 Tharamani P.S	Cr.No.319/19 u/s. 143, 341, 294(b), 560(i) IPC/PT	Trespassed into the Government area and try to conduct a survey of the Kallukuttai lake at Tharamani.
10.	R.11 Royala Nagar PS	Cr.No.1439/17 u/s. 294(b), 323 IPC/ PT	In a public meeting delivered adverse speech against PMK leader Dr.Ramadass and the local party members condemned the speakers.

9.	J.13 Tharamani P.S	Cr.No.319/19 u/s. 143, 341, 294(b), 560(i) IPC/PT	Trespassed into the Government area and try to conduct a survey of the Kallukuttai lake at Tharamani.
11.	F3 Numbam bakkam PS	Cr.No.13/2020 u/s. 143 IPC and 41(vi) CP Act/ UI	Petitioner conducted protest at Valluvar Kottom on 06.01.2020 regarding CAA without permission.

3.1.He further contended that the second respondent rejected the request of the petitioner only to maintain law and order issues and also to preserve public peace and public tranquilly. The second respondent also had reliable information that some miscreants are going to join in the hunger strike intending to create public law and order issue, which will lead to unwarranted situation, endangering the safety to life and property of the common people as well as the participants of the fasting. Further the petitioner also uploaded his speech in the face book by making grave allegations against the second respondent on the personal capacity. When the matter has been subject to the jurisdiction of this Court, this petitioner has got no right to make derogatory remarks against the police department particularly against the second respondent and also against Ministers and it constitute the offence of defamatory. There, he prayed for dismissal of this writ petition.

4. Heard Ms.Sudha Ramalingam, learned counsel appearing for the petitioner, Mr.Natarajan, learned State Public Prosecutor appearing for the respondents

5. This Court has carefully considered the submissions made on either side and also perused the materials available on record. The petitioner trust is a non-governmental organization registered under the Trust Act, which is involved in various social activities. The petitioner decided to have one day symbolic fasting protest on 15.03.2020 to highlight the issues of corruption in Tamilnadu civil supplies corporation, as such the petitioner sent a representation seeking permission and police protection for their protest to be held on 15.03.2020. On receipt of the same the second respondent by his communication dated 28.02.2020 raised several queries for which the petitioner also replied on the very same day. On receipt of the reply the second respondent rejected the permission and police protection sought for by the petitioner by the communication dated 06.03.2020, which is under challenge in this petition.

6. It is seen from the impugned order, the second respondent by communication dated 28.02.2020 raised some queries for which, the reply given by the petitioner is not specific and evasive. Further they mentioned about the cases pending against the petitioner and also quoted the previous untoward incident taken place while a street corner meeting held on 28.10.2017 at Valluvar Salai, near Anasamaram, Ramapuram. The petitioner involved so may cases and they are pending under investigation. Further the second respondent had secrete information some miscreants are going to participate in the strike intending to create public law and order issue while will leading to unwarranted situation endangering the safety to life and property of the common people. In fact, the participant of the hunger strike would be affected. Further the representation was rejected only for the reasons to maintaining law and order issue and preserve the public peace and tranquilly. Therefore, the second respondent rightly rejected the request of the petitioner and there is absolutely no infirmity or illegality in the order passed by the second respondent to interfere by this Court. Therefore, this writ petition devoid of merits and liable to be dismissed.

7. In view of the above discussion, this Writ Petition is dismissed. No order as to costs.

Sd/-

Assistant Registrar (CCC)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary, State of Tamil Nadu,
Home Department, Fort St. George,
Chennai. - 600 009.

2. The Commissioner of Police,
The Greater of Chennai,
Vepery, Chennai - 600 007.

+2cc to M/s.Sudha Ramalingam, Advocate Sr.No.23301

AKM/17.03.2020/5P- 5C /

W.P.No.5893 of 2020