

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MRS.JUSTICE R.HEMALATHA

W.P.Nos.7471, 7476 &7448 of 2020

W.P.No.7471 of 2020

Vazhuvoor Ravi

...Petitioner

Vs.

1.The State of TamilNadu,
Rep.by the Chief Secretary,
Fort.St. George,
Chennai - 600 009.

2.The Additional Chief Secretary to Government,
Department of Art and Culture,
Fort.St. George,
Chennai - 600 009.

3.The Commissioner of Art and Culture Directorate,
Tamil Development Campus 2nd Floor,
Halls Road, Egmore,
Chennai - 600 008.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to consider the petitioners representation dated 07.04.2020 and to pay monitory assistance/relief of Rs.10,000 to each of the Nadeswaram and Thavil Artist who are immensely affected, for the next three months.

W.P.No.7476 of 2020

K.R.Kukesh

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Chief Secretary,
Secretariat, Government of Tamil Nadu,
Fort.St. George, Chennai - 600 009.

2.The Secretary,
Department of Tourism,
Culture and Religious Endowment,
Secretariat, Government of Tamilnadu,
Fort.St. George, Chennai - 600 009.

3.The Commissioner,
Directorate of Art and Culture,
Dr.D.G.S.Dinakaran Road,
Chennai - 600 028.

4.The Director,
Directorate of Art and Culture,
Tamil Valarchi Valagam,
2nd Floor, Halls Road,
Egmore, Chennai - 600 008.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents to pass appropriate orders upon the representation dated 02.04.2020 submitted by the petitioner by extending monetary assistance to the Mangala Isai Musicians in view of COVID 19 lockdown and to frame a policy for the upliftment and the welfare of the Traditional Mangala Isai Musicians (Nadhaswaram, Thavil and Thalam artists) in the state of Tamilnadu.

W.P.No.7448 of 2020

M.Gnanasekar

...Petitioner

Vs.

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

2.The Secretary,
Department of Tourism,
Culture and Religious Endowment,
Fort.St. George,
Chennai - 600 009.

3.The Commissioner,
Directorate of Art and Culture,
Dr.D.G.S.Dinakaran Salai,
Chennai - 600 028.

4.The Chairman,
Tamilnadu Eyal, Isai and Natakam,
"Ponni" No.31, P.S.Kumaraswamy Raja Salai,
Chennai 600 028.

5.The Chief Secretary,
Government of Puducherry,
Chief Secretariat, Puducherry.

6.The Secretary,
Department of Arts and Culture,
Chief Secretariat, Puducherry.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the respondents 1 to 3,5 and 6 to extend minimum monetary assistant to Therukoothu Artists in the State of Tamilnadu, who are under the threat of death due to starvation, through the 4th respondent herein, forthwith and to frame a policy for the upliftment and welfare of Therukoothu Artists in the State of Tamilnadu.

For Petitioner : Mr.V.Ravi
(In W.P.No.7471 of 2020)

For Petitioner : M/s.Y.Kavitha
(In W.P.No.7476 of 2020)

For Petitioner : Mr.M.Gnanasekar
(In W.P.No.7448 of 2020) Party-in-Person

For Respondents : Mr.S.R.Rajagopal, AAG Asst.by
(In W.P.No.7471/2020) Mr.V.Jayaprakash Narayanan, GP
Mr.G.K.Muthukumar, Spl GP
for R1 to R3

For Respondents : Mr.S.R.Rajagopal, AAG Asst.by
(In W.P.No.7476/2020) Mr.V.Jayaprakash Narayanan, GP
Mr.G.K.Muthukumar, Spl GP
for R1 to R4

For Respondents : Mr.S.R.Rajagopal, AAG Asst.by
(In W.P.No.7448/2020) Mr.V.Jayaprakash Narayanan, GP
Mr.G.K.Muthukumar, Spl GP
for R1 to R4

Mr.Bharatha Chakravarthy, PP
for R5 and R6

COMMON ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

These writ petitions have been filed by and on behalf of Folk Artistes viz., Nadaswaram, Thavil, Therukoothu performers and those who recite Mangala Isai.

2. Admittedly, the aforesaid categories of persons have not registered themselves with the respective boards. This is apart from 37000 similarly placed persons having been registered and given the benefit.

3. In an earlier batch of writ petitions filed in W.P.No.W.P.Nos. 7587,7518,7520 & 7529 of 2020 [Nirman Mazdoor Panchayat Sangam v. The State of Tamil Nadu], we have already held that sans registration, a person though stated to be similarly placed would not get the relief and it involves enumeration and the other process of verification.

4. The respective boards from which the writ petitioners seek relief are admittedly, not acting in tune with the mandate of the enactment by making due collection from those who engaged such persons. This factum also we have taken note of in the earlier batch of writ petitions. Accordingly, a direction was issued to the official respondents to undertake such exercise in future so that the persons employed in different categories with different boards would get the benefit under the scheme.

5. The persons on whose behalf these writ petitions have been filed stand on a different footing. These are all Folk Artistes and Performers. Though the lock down imposed has been relaxed considerably, there is not much of change in the situation on ground insofar these persons are concerned. It is informed to us that very recently, a decision has been taken by the State Government to allow all the temples to re-open w.e.f. 01.09.2020 However, the restrictions on a limited basis is being continued. These persons depend upon the functions and festivals in the temples. As of now, mass gathering are prohibited. That is the reason why, we have given a suggestion to the learned Additional Advocate General to consider these categories in a

different way. Accordingly, the learned Additional Advocate General has produced a letter No.6367/C2/2020-1, dated 21.08.2020, wherein it has been stated as follows:-

" I invite your attention to the reference cited and it is learnt that nearly 2500 applications (Nadaswaram, Thavil, Therukoothu) were received from the artistes to register themselves before the Tamil Nadu Folk Artistes Welfare Board after filing writ petition in the Hon'ble High Court. I therefore request you to take action to register their names in the board after following due procedure and to consider their names for sanctioning the ex-gratia to them.

2. I also inform you that the registered folk artistes alone are eligible for getting ex-gratia of Rs.1000/- from the Government due to the pandemic situation in the State. However, the names of the unregistered artistes could be considered for such financial assistance, after they register their names in the Tamil Nadu Folk Artistes Welfare Board.

3. This may be informed to the Additional Advocate General -VI of Tamil Nadu so as to enable him to apprise the same before the Hon'ble High Court of Madras as and when the case is coming up for hearing."

6. Placing reliance upon the aforesaid letter, the learned Additional Advocate General submitted that pending 2500 applications would be considered upon registration by extending ex-gratia amount of Rs.1000/-

7. The learned counsel for the parties submitted that other than 2500 persons others can also be permitted to make their applications and if they are found in order, the benefit can be extended to them as well.

8. There are two issues before us. One is with respect to extension of ex-gratia for those who are likely to apply afresh. The second is with respect to the registration per se with the respective boards so that the benefit can be extended in future. On the second issue, we have already passed a comprehensive order in the earlier writ petitions and therefore, there is no need to pass any order in this regard. We would only hope and trust that the State Government would implement our order by giving specific directions which it is competent to do so under the Act, to the respective boards towards the collection as mandated under the Act by way of contribution from those who utilize the services of various categories of persons which in turn can be used for various schemes. Therefore, we refrain ourselves from saying anything on that. Suffice it to state that these categories also would be covered by our earlier order.

9. Insofar as Mangala Isai is concerned, the learned counsel appearing for the respective petitioners submitted that taking into consideration of the huge numbers of persons involved, the Government may be directed to consider constitution of separate boards. We do not want to express anything on this except by directing the Government to consider the requests made by the petitioners by constituting a separate board which would also facilitate in concentrating the needs of such persons, who are not only substantial in numbers, but also form a separate category. The Government of Tamil Nadu can also consider including the other Artistes who accompany Mangalai Isai, such as, Miruthangam, Violin, Vocal and Veenai and other local instruments. A decision in this regard will have to be taken by the Government within a period of eight weeks from the date of receipt of a copy of this order.

10. On the question of extension of ex-gratia payment of Rs.1000/-, we direct the Government to consider the requests of such of those members coming under these categories viz., Nadaswaram, Thavil, Vocal, Therukoothu, Mangala Isai and other local instruments for extension of the benefits as we do not wish to issue any specific directions in this regard. This can be considered upon registration as they might be standing on the same footing qua 2500 applications which are stated to be pending.

11. In the result, The writ petitions stand disposed of accordingly with the above directions. We only hope and trust that the series of directions issued by us in the earlier batch of writ petition would be given effect to and implemented by the State Government in letter and spirit. Liberty is given to the petitioners also to come before this court in the event of any non compliance of our order. The statement made by the learned Additional Advocate General that upon registration, the applicants among 2500 would be made requisite payment within a period of six weeks, stand recorded. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa/kmk

To

- 1.The Chief Secretary,
The State of TamilNadu,
Secretariat,
Government of Tamilnadu,
Fort.St. George,
Chennai - 600 009.
- 2.The Additional Chief Secretary to Government,
Department of Art and Culture,
Fort.St. George,
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Tamil Development Campus 2nd Floor,
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- 7.The Secretary,
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Fort.St. George,
Chennai - 600 009.
- 8.The Chairman,
Tamilnadu Eyal, Isai and Natakam,
"Ponni"
No.31, P.S.Kumaraswamy Raja Salai,
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9.The Chief Secretary,
Government of Puducherry,
Chief Secretariat,
Puducherry.

10.The Secretary,
Department of Arts and Culture,
Chief Secretariat,
Puducherry.

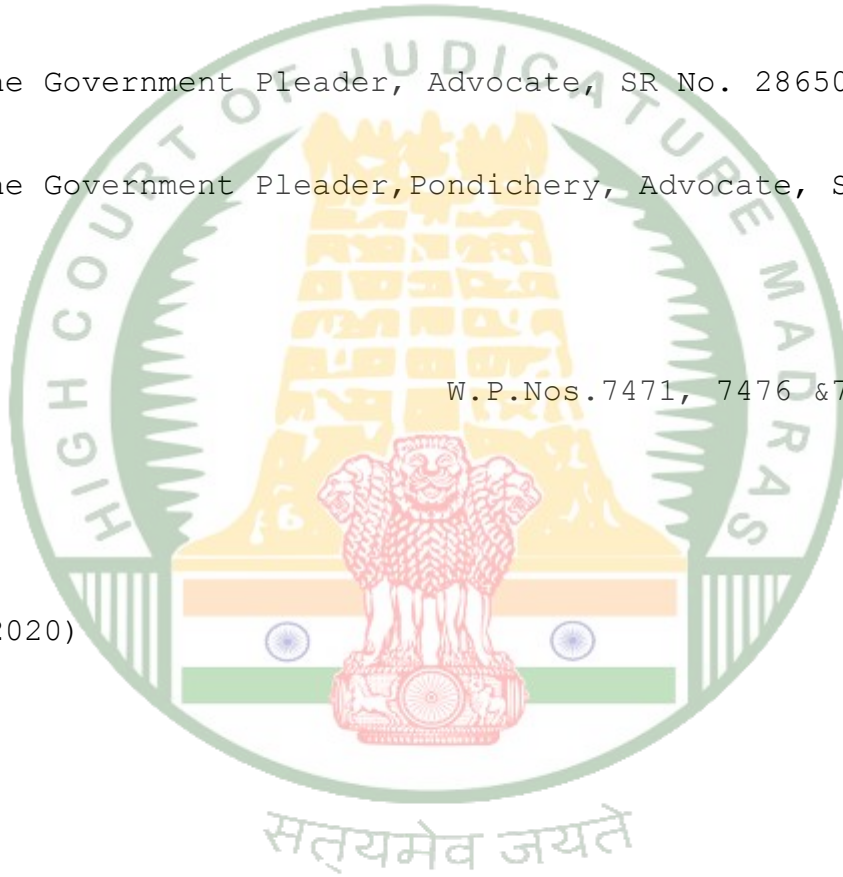
+1cc to Mr. M.Gnanasekar, Advocate, SR No. 28731

+1cc to The Government Pleader, Advocate, SR No. 28650

+1cc to The Government Pleader, Pondichery, Advocate, SR No. 28636

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PP (CO)
RN (30/11/2020)



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