



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2020

CORAM

THE HON'BLE MR.JUSTICE M.SATHYANARAYANAN

AND

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

W.A.(MD)No.729 of 2020

and C.M.P.(MD)No.4246 of 2020

(Through Video Conferencing)

1.The State of Tamil Nadu

Rep. By its Additional Chief Secretary to Government
Tourism Cultural and Endowment Department
St. George Fort, Secretariat,
Chennai - 600 009.

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.

... Appellants/Respondents 1 to 3

-Vs-

1.Dr.S.Mariyappan

...1st Respondent/Petitioner

2.T.Soma Sundaram

...2nd Respondent/4th Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent
praying to set aside the order dated 09.08.2019 passed in W.P.(MD)
No.17120 of 2019.

Prayer in WP(MD). 17120/ 2019 :

Writ Petition is filed under Article 226 of the
Constitution of India, 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 Ednowment Department dated 28-
02-2019 and quash the same as illegal.

For Appellants : Mr.PH.Aravindh Pandian,
Additional Advocate General assisted by
Mr.M.Muthugeethaiyan,
Additional Govt. Pleader

For Respondents :Mr.C.Venkateshkumar for
M/s.Ajmal Associates for R1



JUDGMENT

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**]

The Official respondents in W.P.(MD)No.17120 of 2019 filed by the first respondent/writ petitioner are the appellants.

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2. The first respondent/writ petitioner has filed the said writ petition praying for issuance of Writ of Certiorari, calling for the records relating to the impugned proceedings in G.O.Ms.No.31 of the first appellant dated 28.02.2019 and quash the same.

3. The first respondent/writ petitioner in the affidavit filed in support of the writ petition stating among other things that he is a Nataswaram Artiste, performing various stage programmes at Tamil Nadu Eyal Isai Nataga Mandram and in various functions and temple functions for the past 35 years and he had received various awards given by various entities including the Department of Art and Culture and he has also conferred with Doctor of Letters (Doctorate) issued by the International Tamil University (virtual University), United States of America, apart from receiving various honour and certificate given by various Tamil Sangams.

4. It is the specific case of the first respondent/writ petitioner that with regard to administration of Tamil Nadu Eyal Isai Nataka Mandram, which is a public body registered under Societies Registration Act, 1860, W.P.No.7867 of 2014 was filed praying for appropriate direction, directing the respondents herein to conduct election caused to the vacancies among the 11 elected members for General Council of the said entity and pendency of the same, the first appellant/first respondent amended the Constitution of the said Mandram/Society, whereby the democratic system of election was changed by introducing nomination system in the form of order in G.O.Ms.No.22, dated 19.01.2015. The writ petition was entertained and subsequently, one more writ petition was filed in W.P.4688 of 2015, challenging the legality of the said Government order and pendency of the same, the first appellant also issued G.O.Ms.No.137, dated 14.06.2017 and resorted to arbitrary nomination of 22 General Council Members, out of them nominated 7 members as Executive Committee Members. The said writ petition was entertained and an order of ad-interim direction was passed on 19.03.2018, forbearing the Official respondents not to take any policy decision touching the provisions of the Constitution of Society, without leave of this Court.

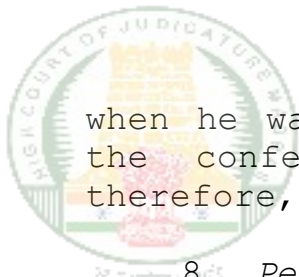
5. The primordial grievance expressed by the petitioner also is that no policy decision has been taken, still the said sangam proceeded and announced the list of persons eligible for various



awards including Kalaimamani Award and in the light of the above said order of restrain, the identification and conferment of the said honour *per se* contemptible.

6. The writ petition was entertained and the third appellant/third respondent has filed the counter affidavit and took a stand that the interim order of forbearance only touching upon the provisions of the Constitution of Society and admittedly, it has not touched upon and since no award was given for a quite long time, a fair and conspicuous decision has been taken to identify the persons to confer the award and insofar as the prescription of the age limit is concerned, in paragraph No.8 of the counter affidavit, it is averred that a famous Mandalin Artiste viz., Mr.U.Srinivas was awarded Kalaimamani title in the year 1991 and prays for dismissal of the writ petition. The learned Judge after taking note of the factual aspects and consideration of the materials dealt with the award conferred upon the persons below 40 years of age in paragraph Nos.40 to 43. Insofar as the private respondents viz., the second respondent herein, the learned Judge in paragraph No.44 observed that he is expert in "Kokkalikattai Attam" and whereas the document produced to disclose that he performed only "Marakkal Attam" and both are different Folks in terms of G.O.Ms.No.115 of the first appellant dated 12.06.2008 and as such, the decision to confer Kalaimamani Award upon the said individual can be considered as flawed and in paragraph No.46 made certain observations and disposed of the writ petition, subject to the same.

7. Mr.P.H.Aravindpandian, the learned Additional Advocate General appearing for the appellants/Official respondents would point out that in operative portion of the order of paragraph No.46, the age prescription has not been cited as one of the directions and the appellants are mostly aggrieved by the fact of prescription of the age limit in terms of the observation in the above cited paragraphs and also points out that insofar as the award conferred by Sangeetha Nadaka Academy is concerned, the said Academy is conferring the award in the name of "Ustad Bismillah Khan Yuva Puraskar" for artistes upto the age of 40 years and "Akademi Puraskar Awards" for artistes in the age of above 40 years and "Akademi Ratna Awards" in the age of 50 years and above and whereas in respect of "Kalaimamani Award", there is no age prescription and also drawn the attention of this Court to the counter affidavit filed in the writ petition and would submit that this Court can also take judicial notice of the fact that the traditional Folk artistes would gain experience by passage of time and sometimes prodigious persons may also born and they should also be encouraged and also point out one instance, where "Kalaimamani Award" has been conferred upon Mandalin U.Srinivas



when he was aged about 22 years and the sole purpose/idea behind the conferment of award is to encourage the artistes and therefore, prays for appropriate orders.

8. *Per contra*, the learned counsel appearing for the first respondent/writ petitioner would submit that there is no transparency in selecting the awardees and taking into consideration of the cumulative facts and circumstances, the learned Judge has rightly disposed of the writ petition with certain directions and prays for dismissal of the Writ Appeal.

9. This Court has carefully considered the rival submissions and also perused the materials placed on record.

10. It is relevant to extract paragraph Nos.46 and 47 of the order hereunder:

'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.'

11. The learned Judge in paragraph 46 of the order did not refer to the observations or findings given in paragraph Nos.40, 41 and 43. As rightly pointed out by the learned Additional Advocate General, insofar as the Kalaimamani Award conferred by the Government of Tamil Nadu is concerned, no specific age limit has been prescribed and whereas in respect of award conferred by Sangeetha Nadaka Academy is concerned in the name of "Ustad Bismillah Khan Yuva Puraskar Awards" the honour in the form of award is being conferred upon the artistes upto the age of 40 years and "Akademi Puraskar Awards" for artistes in the age of above 40 years and "Akademi Ratna Awards" in the age of 50 years and above.

12. The learned Judge has also taken note of the well settled legal position as to the interference in the decision of the experts in exercise of jurisdiction under Article 226 of the Constitution of India in paragraph No.42 and found that the conferment of decision to confer Kalaimamani Award upon the second respondent in the light of the materials placed considered to be flawed.

13. In the absence of any prescribed age limit for conferment of Kalaimamani Award and also take into consideration the object behind the conferment of Kalaimamani Award, this Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot prescribe any age limit for conferment of the said Award. Sometimes persons with high IQ/prodigious may also born and they excel in the relevant field even at a young age and they should also be encouraged by conferment of Awards, titles, etc.

14. Therefore, there may not be any prescription of age limit



for conferment of Kalaimamani Award in the light of the reasons above. However, it is made clear that the appellants/Official respondents are expected to adhere to the directions given in paragraph No.46 of the impugned order passed in the writ petition.

15. This Writ Appeal stands disposed of accordingly with the above directions. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to SGP (SR-16633[F] dated 11/09/2020)

W.A. (MD)No.729 of 2020
and C.M.P. (MD)No.4246 of 2020
10.09.2020

 KM (18.09.2020) 6P 2C