



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.5535 of 2015

and

M.P. (MD)No.2 of 2015

Lawrence

:Petitioner

vs.

1.The District Collector,
Nagercoil, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram, Kanyakumari District.

3.The Tahsildar,
Vilavancode, Kanyakumari District.

4.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

5.Mariya Arul Dhas

:Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent made in Letter No.D.Dis/C3/1674/2015, dated 15.02.2015 and quash the same and consequently, to direct the respondents to permit the petitioner to conduct the prayer in the petitioner's premises.

For Petitioner

:Ms.J.Anandhavalli

For R1 to R4

:Mr.A.Thiyagarajan

Government Advocate

For R5

:Mr.S.Palanivelayutham



O R D E R

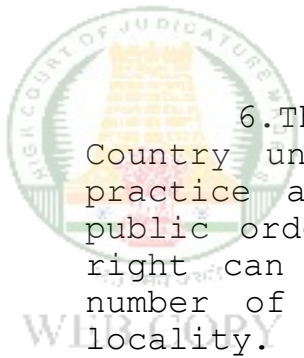
This Writ Petition is filed to quash the proceedings of the first respondent, dated 15.02.2015 and consequently, to direct the respondents to permit the petitioner to conduct prayer meeting in the petitioner's premises.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

3.The petitioner belongs to Christian community and follows by faith a particular congregation, known as "Penthacoste". The petitioner is residing in a house bearing D.No.2/30/6 at Chettivilai Village, Perumankuzhi, Vilavancode Taluk, Kanyakumari District. It is the case of the petitioner that he is doing prayer in his house with his family members and friends without disturbing any public affecting their feelings. It is the further case of the petitioner that several persons belonging neighbouring villages participated in the prayer offered by the petitioner and that they have faith in getting benefit out of such prayer.

4.It is not in dispute that a Church is located, just adjoining to the petitioner's house and the distance between the petitioner's residential house and the Church will be around 180 meter. It appears that the priest and persons, who assemble to offer prayer in the Church have some objections for the petitioner to conduct the prayer meeting in his house. Therefore, when permission was sought by the petitioner to conduct prayer in his house, it appears that some objections came from persons, who are associated with the Roman Catholic Church adjoining the petitioner's residential premises. On the basis of such objections and the report received from the police officials after a discrete enquiry, the District Collector rejected the representation of the petitioner for conducting prayer meeting or prayers in his residential house by citing law and order issue.

5.Though several proceedings of the Sub Judicial Magistrate and police officials and other documents like, the objection of the fifth respondent and the followers of Church of fifth respondent are produced, this Court is of the view that it is not necessary to consider the facts elaborately as the objections are purely due to apprehension and intolerance. It is admitted that the Church belongs to the fifth respondent is located in the very same vicinity about 180 meters away from the petitioner's house. It is also admitted that except the objection received from the public, who are believers of Roman Catholic congregation of Christianity, no other objection is received particularly, by the Hindus, who also live in the place. Therefore, the dispute is narrowed down.



6.The fundamental right guaranteed to every citizen of this Country under Article 25 of Constitution of India, to profess, practice and propagate any religion in absolute but subject to public order and morality. This Court is of the view that this right can not be restricted or qualified with reference to the number of people following or with reference to any particular locality. Hence, the country being a secular country, every Government and Government Instruments is expected to protect the interest of every recognised religious congregates to freely profess or practice or propagate their religion without affecting the religious sentiments of any other person or community in general.

7.This Court is of the view that the objection raised by the fifth respondent and their men is on account of using loud speakers and by issuing pamphlets, which are not appropriate, even according to the official respondents. One of the objections raised by the fifth respondent in his complaint to the police authorities is that the petitioner is bringing outside members to his house, so as to cause inconvenience and nuisance to the members, who are visiting the fifth respondent Church.

8.The District Collector by the impugned order, though accepted the case of the petitioner about the constitutional protection given to every religion and the right of petitioner to profess, practice and propagate religion, rejected the permission only on the ground that there is likelihood of law and order problem, if the petitioner is allowed to conduct prayer meeting. The District Collector has also referred to the report of Revenue Divisional Officer, Padmanabhapuram, namely, second respondent, and the letter sent by Superintendent of Police, dated 09.12.2015.

9.The letter of Revenue Divisional Officer as well as the Superintendent of Police indicate that the objections for the petitioner to conduct prayer meeting came only from the members, who belong to the faith of Roman Catholic order and the Church of the fifth respondent. This Court is of the view that the order refused to grant permission to petitioner to conduct prayer meeting in the petitioner's residential premises citing law and order issue is not appropriate.

10.It is true that the right guaranteed to every citizen of this Country under Article 25 of the Constitution of India is not absolute and it can be subjected to public order and morality and health. However, the right cannot be curtailed merely by citing objections of a rival group, who may have some apprehensions and nothing more than that. It is to be noticed that Kanyakumari District is known as an area, which is prone to communal violence earlier, pursuant to the firing incident at Mandaikadu. It to be remembered that the conflict was then between Hindus and Roman Catholic Christians. It also common in several parts of this State



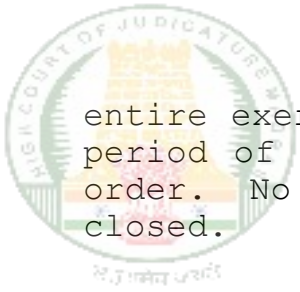
among the people, who are Christians faith, but ordained by different Churches based on their faiths.

11.The protection under Articles 25 and 26 of Constitution of India should be absolute to enjoy their religious pursuits without disturbing others or affecting the religious sentiments of others and hence, there can be restriction to protect public order, morality and health. There cannot be curtailment on the basis of apprehensions of doubting minds belonging to other communities or other groups among the same religious order. Though the Christians are normally identified in this State as belonging to the same religion, the case like this, only exposes the fanaticism and intolerance even among the Christians, following different faiths within the same religion. It is unexpected and unwanted as it only exposes them and diminish the values of their so called religious faith.

12.The learned Counsel for the petitioner submitted that the petitioner will abide by any reasonable restrictions or conditions, which will be required to maintain law and order in the vicinity or in the area. The learned Counsel for the fifth respondent though have serious objections originally, in the course of hearing, after pointing out the ironic situation, accepted that the permission can be given to the petitioner subject to restrictions, so that their right to worship and to have their religious practice inside their church premises would never be put an issue.

13.This Court, in view of the submissions made by the learned Counsel on either side and the stand taken by the learned Counsel for the fifth respondent, is of the view that the petitioner can be permitted to conduct prayer meeting in his residential premises, which is not prohibited in law subject to reasonable restrictions and conditions in the interest of other groups or public to ensure law and order and public peace.

14.As a result, this Writ Petition is allowed and the impugned order passed by the first respondent, dated 15.02.2015 is quashed. The first respondent is directed to consider the petitioner's application afresh seeking permission to conduct prayer meeting in his residential house at D.No.2/30/6 in Chettivilai Village, Perumankuzhi, Vilavancode Taluk, Kanyakumari District subject to any reasonable restriction and condition to ensure law and order and public peace in the near by vicinity. It is open to the District collector to grant permission subject to certain stringent conditions, which are necessary only for the purpose of maintaining law and order and there can be a default clause, by which the petitioner will lose his right to conduct prayer meeting, in case, if he violates such conditions. The fifth respondent may also be given an opportunity to address his grievance, so that permission can be granted having regard to the sentiments and the privilege of other people living in the vicinity. The



entire exercise shall be completed by the first respondent within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1.The District Collector,
Nagercoil, Kanyakumari District.

2.The Revenue Divisional Officer,
Padmanabhapuram, Kanyakumari District.

3.The Tahsildar,
Vilavancone, Kanyakumari District.

4.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.

+1 CC to M/s.J.ANANDAVALLI, Advocate (SR-7009[F] dated 19/02/2020)

+1 CC to M/s.SPL.GP (SR-7054[F] dated 19/02/2020)

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate (SR-7162[F] dated 19/02/2020)

W.P. (MD)No.5535 of 2015
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JMN(28.02.2020) 5P : 8C