



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 21.01.2020

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Writ Petition (MD) No.23562 of 2019
and WMP (MD) Nos. 20183 & 20185 of 2019

Host of Holy God,
represented by its Founder,
R. Rajaguru.

... Petitioner

Vs.

1.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.

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

3. The Deputy Superintendent of Police,
Ambasamudram, Tirunelveli District.

4.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a **Writ of Certiorarified Mandamus** to call for the records relating to the impugned notice of the first respondent in Na.Ka.A4/70/19 dated 10.08.2019 and quash the same and consequently forbear the respondents from interfereing with the petitioner's Trust activities in the premises at D.No.31H, R.S. New Colony, Papanasam Main Road, Ambasamudram, Tirunelveli District.

For Petitioner : Mr.P.P. Alwin Balan

For Respondents : Mrs.Bharathi
Government Advocate (Cr1. side)

O R D E R

This petition has been filed seeking for a direction to quash the impugned notice of the first respondent in Na.Ka.A4/70/19, dated 10.08.2019 and consequently, forbear the respondents from interfereing with the petitioner's Trust activities in the premises

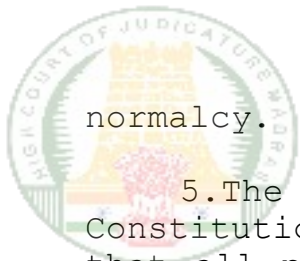


at D.No.31H, R.S. New Colony, Papanasam Main Road, Ambasamudram, Tirunelveli District.

2. The case of the petitioner is that the said Trust was registered on the file of SRO, Ambasamudram vide Document No.07/2019, dated 27.05.2019 and at the time of registration, he has entered into a Lease Agreement with his son Ramesh Dhanasingh, who is one among the Trustees and carried out the Trust meeting and planning for execution of the charitable works at No.31-H, R.S. Colony Main Road, Ambasamudram, Tirunelveli District. Since their Trustees are Christians, the meeting session will commence and end up with the prayer, whereas, the Trust activities which were carried out by the Trust Members are in support of the public and many general public get benefit out of it. On 04.08.2019 when Trust meeting was going on, the first respondent along with the third respondent have entered into the premises of the petitioner and stated that there is a complaint against the gathering in the said premises. Hence, the petitioner has approached the District Collector, Tirunelveli District and gave a representation dated 07.08.2019 and the same was forwarded to the second respondent and Sub-Collector, Cheranmahadevi in Na.Ka. No.C2/30172/2019, dated 09.08.2019 and thereafter, the first respondent has issued the impugned notice in Na.Ka.A4/70/19, dated 10.08.2019, directing the petitioner to seek appropriate permission for conducting prayers in the premises. Aggrieved over the same, the petitioner is filed the instant Writ Petition for the aforesaid relief.

3. The learned counsel for the petitioner would submit that a false complaint has been given by unknown persons to the fourth respondent, as if, there is a law and order problem due to conducting prayer in his house. He would further submit that the petitioner has given a representation on 07.08.2019 to the District Collector, Tirunelveli to direct the respondents and ensure free conduction of Trust Meeting and the same was forwarded to the second respondent and Sub-Collector, Cheranmahadevi in Na.Ka. No. C2/30172/2019 dated 09.08.2019 and thereafter, the first respondent has issued the impugned notice in Na.Ka.A4/70/19 dated 10.08.2019, and thereby, he is not conducting the prayer in his premises. He would further submit that this Court, in several writ petitions, have permitted the respective petitioners to conduct prayers in the residence/houses without causing nuisance or disturbance to others and to general public, using speaker and sound system within the permissible limits.

4. The learned Government Advocate (Crl. side) would submit that if prayers are conducted within the residence/premises of the petitioner without causing disturbance to the general public and without using any speaker or sound system, the police will not have any objection in permitting such prayers. However, if the petitioner in the name of prayer, tries to spoil the peace and harmony in the premises, certainly the police will have to interfere to restore



normalcy.

5.The learned counsel for the petitioner would submit that the Constitution of India guarantees fundamental rights and mandates that all persons are equally entitled to freedom of conscience and to exercise their right to freely profess practice and propagate religion and therefore, the petitioner and his brethren belonging to the Christian community are also having such fundamental right and the same cannot be interfered by the respondent police.

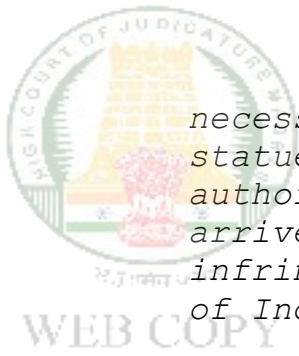
6.The learned counsel for the petitioner would in support of his contention rely on the earlier orders of the Principal Bench of this Court and this Court in W.P.No.2149 of 2018, dated 14.06.2019, W.P.(MD).No.18955 of 2018, dated 31.08.2018 and W.P.(MD)No.710 of 2019, dated 11.01.2019 and would reiterate that the petitioner cannot be prevented from conducting in his residence/house.

7.Heard Mr.P.P. Alwin Balan, learned counsel for the petitioner, Mrs.S.Bharathi, learned Government Advocate (criminal side) for the respondents.

8. The specific case of the petitioner is that the prayer is being conducted at Trust office and the same is being attended by the Trust members and staff. Further case of the petitioner is that these prayers are not going to cause any nuisance or hindrance to the others living in the locality and no loud speaker or sound system is being used for conducting the said prayers, whereas on the basis of unfounded complaints the petitioner is prevented from conducting prayers.

9. In W.P.(MD)No.710 of 2019, dated 11.01.2019 filed by a person similarly placed as that of the petitioner this Court has held as follows:

"14. Following the above decisions and the fundamental rights guaranteed under the Constitution of India to the citizens, in the opinion of this Court, there is no need to get prior permission from any authority for assembling and conducting prayers in a dwelling place without causing nuisance or disturbance to others and without causing hindrance to the general public. It is the duty of the authorities to safeguard the protection of every citizen of this Country to practise constitutional rights guaranteed under the Constitution of India. However, in a civilized Society in the name of religion, activities, which disturb others, in any manner and for bona fide reasons, cannot be permitted and hence, if there is any nuisance caused due to noise pollution or for any other bona fide reasons, it is always open to the authorities to take



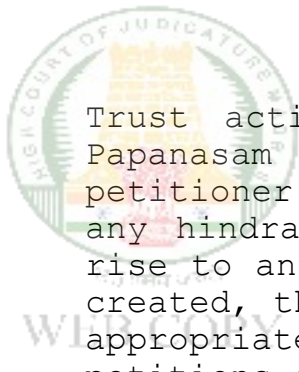
necessary action under the provisions of the relevant statutes. But, before resorting to any action, the authorities, on the basis of concrete evidence, should arrive at a subjective satisfaction that there exists infringement of a right of others, under the Constitution of India, to enforce public order."

10. In the above order of this court had referred to earlier orders of this court passed in similar circumstances.

- a) CDJ 2007 MHC 5279 (Sadhu C.Selvaraj Vs. The Collector, Kanyakumari)
- b) 2005 4 CTC 171 (Albert Raj Vs. The District Collector, Kanyakumari District at Nagercoil)
- c) Order, dated 14.08.2012, made in WP(MD)No.10782 of 2006, of the Madurai Bench of the Madras High Court.
- d) Order, dated 13.08.2007, made in WP(MD)No.6732 of 2007, of the Madurai Bench of the Madras High Court.
- e) Order, dated 30.04.2008, made in WP.No.4151 of 2008, of the Madras High Court.
- f) Order, dated 14.12.2012, made in WP(MD)No.13336 of 2007, of the Madurai Bench of the Madras High Court.
- g) Judgement, dated 03.01.2017, made in WA(MD)No.1349 of 2013, of the Madurai Bench of the Madras High Court.
- h) Order, dated 28.11.2011, made in CrI.OP(MD)No.15462 of 2011, of the Madurai Bench of the Madras High Court.
- i) Order, dated 31.08.2018, made in WP(MD)No.18955 of 2018, of the Madurai Bench of the Madras High Court.
- j) Order, dated 09.03.2018, made in CrI.OP(MD)No.3039 of 2018, of the Madurai Bench of the Madras High Court.

11. In view of the above and under such circumstances, this Court does not find any reason as to why the petitioner should not be permitted to conduct such prayers in his own residence.

12. Taking into consideration of the submission of the learned counsel on either side, the impugned notice in Na.Ka.A4/70/19, dated 10.08.2019 passed by the first respondent is quashed and this writ petition is disposed of with the direction to the respondents not to interfere with the right of the petitioner, conducting prayer along with relatives and friends at the residence of the petitioner's



Trust activities in the premises at D.No.31H, R.S. New Colony, Papanasam Main Road, Ambasamudram, Tirunelveli District. The petitioner shall ensure that this prayer does not in any way cause any hindrance to the general public and does not in any way give rise to any law and order problem. If any law and order problem is created, then certainly, the respondent police is at liberty to take appropriate action. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar(CS)

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To

- 1.The Tahsildar,
Ambasamudram Taluk,
Tirunelveli District.
2. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
3. The Deputy Superintendent of Police,
Ambasamudram, Tirunelveli District.
- 4.The Inspector of Police,
Ambasamudram Police Station,
Tirunelveli District.

+1 CC to M/s.P.P.ALWIN BALAN, Advocate (SR-2313[F] dated 22/01/2020

WP. (MD) No.23562 of 2019

21.01.2019

JMN(29.01.2020) 5P : 6C