

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.03.2021

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

W.P.No.6186 of 2021
and WMP.Nos.6810 and 6812 of 2021

S.Kumar

..Petitioner

Vs.

1.State of Tamil Nadu
rep.by its Secretary to Government,
Animal Husbandry Dairying and Fisheries Department,
Secretariat, Chennai.

2.The District Collector,
Perambalur District,
Perambalur.

3.The Superintendent of Police,
Perambalur District, Perambalur.

4.The Secretary,
Animal Welfare Board,
No.13/1, 3rd Sea Ward Road,
Thiruvannamiyur, Chennai.

.. Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.D2/0069/2021 dated 26.02.2021 and quash the same and consequently directing the 2nd respondent to grant permission and necessary protection for conducting the Jallikkattu at Sillakudi Village, Alathur Taluk, Perambalur District on 10.03.2021 or any other subsequent earlier date convenient of the respondent in the light of G.O.(D).No.80, Animal Husbandry Dairying and Fisheries (AH3) Department, dated 15.02.2021 and pass such further or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.K.Mahendran

For Respondent : Mr.S.Kamalesh Kannan
Government Advocate

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioner claims to be the President of 'Jallikattu' Festival Committee, Silkudi Village, Alanthur Taluk, Perambalur district and in the affidavit filed in support of this Writ Petition, would aver that in his Village, namely, Sillakudi, there exists ancient Temple, namely, Arulmigu Sri Mariamman Temple and during the Tamil Months of Thai - Maasi, temple festivals will be conducted, culminating the function of 'Jallikattu'. It is also pointed out by the petitioner that in terms of G.O.(D).No.80, Animal Husbandry Dairying and fisheries (AH3) Department, dated 15.02.2021, the petitioner's Village has also been included in the District Gazette and permission was also accorded to conduct 'Jallikattu' in any one of the days between 17.02.2021 and 14.03.2021. The petitioner, in this regard, has also submitted an application dated 29.01.2021, with an Undertaking Affidavit and also willing to comply with the provisions of Prevention of Cruelty to Animals Act, 1960, as amended by the Prevention of Cruelty to Animals Act, 2017 and Rules framed thereunder and despite that the 2nd respondent, vide impugned communication dated 26.02.2021, has rejected the application on the ground of promulgation of Model Code of Conduct by the Election Commission of India, in view of the ensuing Assembly Election, during April 2021 and therefore, prays for interference.

2. The learned counsel appearing for the petitioner has drawn the attention of this Court to the proceedings of the Collector of Thanjavur District dated February 2021 in Na.Ka.No.098/2021/E1 and would submit that in similar facts and circumstances, the application for conducting 'Jallikattu' by People of Nanjikkottai Village, Thanjavur District, has been accorded and the Thanjavur District Collector has also taken note of the assembly election notification dated 26.02.2021, imposed various conditions and it is also open to the 2nd respondent to impose similar conditions and accord permission.

3. The learned counsel appearing for the petitioner, on instructions, would submit that insofar as price distribution is concerned, it would be deferred till the lifting of the Model Code of Conduct by the Election Commission of India, after conclusion of the Tamil Nadu Legislative Assembly Election and the said submission, on instructions, is placed on record.

4. *Per contra*, Mr.Kamalesh Kannan, learned Government Advocate appearing for respondents 1 to 3 would submit that in the light of the promulgation of Model Code of Conduct by the

Election Commission of India and that the revenue and police officials will be deputed for election duties, it may extremely be difficult to monitor the law and order and public order situation, which may arise out of the conduct of the 'Jallikattu' festival and also pointed out that under the garb of price distribution, canvassing is also likely to take place on behalf of the candidate belong to the particular political party. In order to prevent the same, the 2nd respondent has rightly passed the impugned proceedings, in and by which, the permission sought for by the petitioner came to be rejected and prays for dismissal of this Writ Petition.

5. The learned counsel appearing for the petitioner, during the course of arguments, has also brought to the knowledge of this Court, the order dated 02.03.2021 in W.P.(Md).No.4460 of 2021 (*V.Kumar Vs. the District Collector, Pudukottai District and 2 others*) and would submit that in similar facts and circumstances, the Division Bench of Madurai Bench of Madras High Court has passed orders, according permission to conduct 'Jallikattu', subject to imposition of conditions and prays for similar order.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. A perusal of the proceedings of the Collector of Thanjavur District dated February 2021, in Na.Ka.No.098/2021/E1, would disclose that the promulgation of the election notification by the Election Commission of India, in respect of conducting of election for Tamil Nadu Legislative Assembly, have also been taken into consideration and very many conditions also came to be imposed.

8. The learned counsel appearing for the petitioner would submit that in the event of the 2nd respondent passes positive order, imposing said conditions or additional conditions, if any, the petitioner will abide by the same, apart from complying with the provisions of the Prevention of Cruelty to Animals Act, 1960, as amended by the Prevention of Cruelty to Animals Act, 2017 and Rules framed thereunder.

9. The learned counsel appearing for the petitioner, on instructions would submit that in the event of any law and order and public order, problem that may arise while conducting the 'Jallikattu' function, in the Village of Sillakudi Village, Alathur Taluk, Perambalur District, the organizers may be held responsible and it is open to the official respondents concerned, to take appropriate action in accordance with law also and it is needless to point out that in the event of any law and order and public order problem, it is always open to the

official respondents concerned, which may include the law and order machinery, to take appropriate action in accordance with law.

10. In the light of the order dated 02.03.2021, passed in W.P.MD.No.4460 of 2021, as well as the conditions imposed by the Collector of Thanjavur District, dated February 2021 in Na.Ka.No.098/2021/E1, passed under similar facts and circumstances, this Court is of the considered view that the impugned order of the 2nd respondent dated 26.02.2021, once again warrants interference.

11. In the result, the Writ Petition is Partly Allowed and the impugned proceedings of the 2nd respondent dated 26.02.2021, is set aside and the matter is once again remanded to the 2nd respondent, who shall take into consideration the above cited proceedings of the Collector of Thanjavur District, dated February 2021 in Na.Ka.No.098/2021/E1 and pass appropriate orders as expeditiously as possible and not later than one week from the date of receipt of a copy of this order / uploading of the order in the Website and communicate the decision taken, to the writ petitioner. It is also made clear that the price distribution relating to the 'Jallikattu' to be held, shall be deferred till the conclusion of the Tamil Nadu Legislative Assembly election and passing of an appropriate order by the Election Commission of India. No costs. Consequently connected miscellaneous petitions are closed.

**(*) Xerox Copy of the proceedings of
Tanjore District Collector, dated Feb.2021
herewith enclosed.**

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government,
State of Tamil Nadu
Animal Husbandry Dairying and Fisheries Department,
Secretariat, Chennai.

2.The District Collector,
Perambalur District,
Perambalur.

3.The Superintendent of Police,
Perambalur District, Perambalur.

4.The Secretary,
Animal Welfare Board,
No.13/1, 3rd Sea Ward Road,
Thiruvannamiyur, Chennai.

5.The District Collector,
Tanjore District, Tanjore.

+1cc to Mr.K.Mahendran, Advocate SR.NO..16161

AKM/15.03.21/ 5P- 7C/

W.P.No.6186 of 2021
12.03.2021