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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.9970 of 2021
and
WMP. No.10589 of 2021

Tamil Nadu Thirukkivil
Thirumadangal Pathukappu peravai,
Regd No.18/2018, No 165 A4,
Sri Nagar Akkalur,
Pattamangalam Mayiladuthurai
Rep by its State President Mayil alias A.Ravi

...Petitioner

vs.

1. State of Tamil Nadu
Rep by its Secretary to Government,
Tamil Development and Hindu Religious and
Charitable Endowment Department,
State of Tamil Nadu,
Fort.St.George, Chennai - 600 009.
2. The Commissioner
Tamil Nadu Hindu Religious and Chairtable
Endowments Department, Nungabakkam High Road,
Chennai.
3. The Collector,
Mayiladuthurai, Mayiladuthurai District.
4. The Joint Commissioner,
HR and CE Department, Mayiladuthurai,
Mayiladuthurai District.
5. Adheenakartha
Dharumapura Adheenam, Hereditary Trustee of
Arulmigu VaithiyanadhaSwamy Thirukoil at
Vaitheeswaran Kovil, Dharumapuram,
Mayiladuthurai.

...Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue Writ of mandamus
directing Respondents to postpone the Consecration
(Kumbabishekam) Religious Congregations and Tiruvizha which is



to be held from 22.4.2021 to 30.4.2021 in the Temple Viz Arulmigu VaithiyanadhaSwamy Thirukoil at Vaitheeswaran Kovil, to some other date after COVID-19 in come to complete control and till then not to conduct any Consecration (Kumbabishekam), Religious Congregations and Thiruvizha as scheduled.

For Petitioner :Mr.S.Doraisamy

For Respondents :Mr.M.Karthikeyan,
Special Government Pleader
for R1, R2 & R4
Mr.R.P.Prathap Singh,
Government Advocate for R3
Mr.S.Sounthar for R5

O R D E R

The present writ petition is filed by the Tamil Nadu Thirukkivil, Thirumadangal Pathukappu Peravai, a registered association seeking a direction to the respondents i.e. State of Tamil Nadu/R1 and officials of the Tamil Nadu Hindu Religious and Charitable Endowments Department i.e. R2 and R4, the Collector, Mayiladuthurai/R3 and Adheenakartha, Dharumapura Adheenam/R5 in regard to conduct of the Kumbabisehkam and Tiruvizha in Arulmigu Vaithiyanadha Swamy Thirukoil at Vaitheeswaran Kovil ('temple') between the period 22.04.2021 to 30.04.2021 in the temple premises.

2. The apprehensions of the petitioner are that the conduct of Kumbabisehkam and Tiruvizha would result in a congregation of persons, which is not in the best interests of the public seen in the light of the ongoing pandemic and that the conduct is in itself contrary to the regulations of the Government, presently in force. Hence, there is a prayer for a direction to the respondents to postpone the conduct of Kumbabisehkam and Tiruvizha.

3. Mr.M.Karthikeyan, learned Special Government Pleaders accepts notice for R1, R2 and R4, Mr.R.P.Prathap Singh, learned Government Advocate accepts notice for R3 and Mr.S.Sounthar, learned counsel accepts notice for R5 and all learned counsels are fully prepared and armed with instructions from their respective instructing parties.

4. I am given to understand that the festival has commenced yesterday and is presently ongoing.

5. A memo is filed by the respondents duly executed by the learned Special Government Pleader, wherein the assure the court that all prevailing rules and regulations issued by the State



will be strictly adhered to in the conduct of the festivals. The memo is extracted below:

'MEMO FILED ON BEHALF OF THE RESPONDENTS

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The above writ petition is filed by the Petitioner praying to issue,

" Writ of Mandamus or order or direction in the nature of a writ directing respondents to postpone the Consecration (Kumbabisheka), Religious Congregations and Thiruvizha which is to be held from 22.04.2021 to 30.04.2021 in the temple viz, Arulmigu Vaithyanadha Swamy Thirukoil at Vaitheeswaran Kovil to some other date after COVID-19 in come to complete control and till then not to conduct any Consecration (Kumbabishekam), Religious Congregations and Thiruvizha as scheduled and pass such further or other orders and thus render Justice"

On instructions, it is submitted, that Kumbabishegam/Thiruppani, is going to be held 29.04.2021 by adhering the following conditions.

(a) Permission has been accorded by the District Collector on 15.04.2021 to carry out the Kumbabishegam based on the Government Order No.451 Dated 31.08.2020 and G.O.No.342 dated 08.04.2021 by allowing only the employees of temple.

(b) In compliance of the directions issued by the District Collector, the Kumbabishegam will be conducted only by allowing the employees of the Temple.

(c) Employees numbering around 360 to 380 will be allowed to participate in the Kumbabishegam on the said date.

(d) All Covid-19 related Protocols will be duly followed by everyone present and by the HR & CE Administration during the conduct of the Kumbabishegam.



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(e) Sanitizers will be provided to all the Participants.

(f) All the Participants will be wearing mask and will be following social distancing.

(g) The Temple has an area of more than One Lakh Sq.Ft and around 15,000 Sq.Ft is vacant. Therefore, enough area is available for maintaining the social distancing and smooth conduct of Kumbabishegam by following the Covid-19 protocols.

(h) All the functions relating to the Kumbabishegam has already been commenced and as it is going on at present.

(i) Arrangements have been made to live stream the entire proceedings so that the Devotees may watch the same and get the blessings.

Therefore, It is humbly submitted that, the all essential functions relating to Kumbabishegam and the arrangements relating to the same has already been carried out and therefore, based on the order issued by the District collector dated 15.04.2021, the HR & CE Administration will duly follow the Covid-19 protocols by wearing mask, maintaining social distancing and for conduct Kumbabishegam.

Therefore, the same may be recorded the memo and dismiss the writ petition.

6. A specific objection raised by the learned counsel for the petitioner is that, in the recent notification dated 18.04.2021, the Government has specified that not more than fifty members of the public should be permitted to participate in temple festivals; however, as per the memo now filed 360 to 380 person will be participating in the festival.

7. However, the reference to 50 persons in the aforesaid notification, is to the members of the public over and above temple officials/employees. In this case, the temple officials have confirmed that no member of the public will be allowed inside. Thus, the total number of persons in attendance for the festival will 360 to 380 (maximum), who will be housed in the spacious premises of the temple.



8. This Court had expressed the view that the festival could be live-streamed in order to reach as many members of the public as possible and the respondents have undertaken to provide this facility.

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9. Moreover, since the wearing of masks and the maintenance of all covid-19 protocols including social distancing is mandatory, I appoint an independent observer to monitor that the aforesaid protocols are being followed. Any violation in regard to the aforesaid will be brought to the notice of the authority by the observer for immediate remedial action.

10. To this end, this Court appoints, at the suggestion of learned Special Government Pleader, to which the learned counsel for petitioner agrees, Mr.A.Vikranth Raja, I.A.S., Secretary to Government of Pondicherry, as an observer for the conduct of the temple Kumbabisehkam and Tiruvizha. He will file a report indicating adherence with all precautionary measures as well as instances of violation of protocols, if any, and the remedial action taken. Mr.Karthikeyan, learned SGP will be present in the temple to coordinate with the observer and ensure compliance of this order. A fine of Rs.500/- will be imposed in the case of every violation for non-usage/improper and ineffective use of mask. It must be ensured that the mask is used effectively to cover the nose and mouth of the wearer. The fine collected shall go to the corpus of the temple and receipt issued by the temple.

11. With these observations, this writ petition stands disposed. Connected miscellaneous petition is closed. No costs.

12. Report of observer to be filed with the registry by the 5th of May 2021. Place for compliance on 01.06.2021.

Sd/-

Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
State of Tamil Nadu
Tamil Development and Hindu Religious and
Charitable Endowment Department,
State of Tamil Nadu,
Fort.St.George, Chennai - 600 009.



2. The Commissioner
Tamil Nadu Hindu Religious and Chairtable
Endowments Department, Nungabakkam High Road,
Chennai.

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3. The Collector,
Mayiladuthurai,
Mayiladuthurai District.

4. The Joint Commissioner,
HR and CE Department, Mayiladuthurai,
Mayiladuthurai District.

+1cc to the Special Government Pleader Sr.25057

+1cc to M/s.S.Doraisamy, Advocate Sr.24625

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and
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srg 16/08/2021