



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2021

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P(MD)No.12695 of 2021

and

W.M.P(MD) .No.10213 of 2021

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M.Gopalakrishnan

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Sub Divisional Magistrate cum Revenue Divisional Officer,
Melur
(having office at Narasingampatti)
Madurai District.

3.The Thasildar,
Melur Taluk,
Madurai District.

4.Anwar Baig

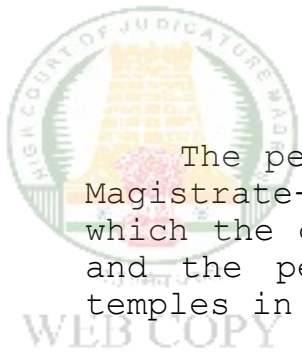
... Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Melur dated 19.07.2021 in Na.Ka.No.5231/2019/C and quash the same and consequently direct the respondent not to interfere in the worshipping rights of petitioner in the village temples of Sambiranipatti, viz., Arulmigu Saengai Vellimalaiyandi Temple, Arulmigu Manthai Vellimalaiyandi Temple and Arulmigu Pudhukanmoikarai Ayyanar Swamy Temple, Sambiranipatti Village, Melur Taluk, Madurai District.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.P.Subbaraj,
Counsel for State for R1 to R3
Mr.P.Gunasekaran for R4
Mr.T.Sakthi Kumaran (proposed)



ORDER

The petitioner challenges an order passed by the Sub-Divisional Magistrate-cum-Revenue Divisional Officer, Melur dated 19.07.2021 by which the order passed by the Thasildar on 15.07.2021 was set aside and the petitioner was prevented from offering worship at three temples in Sambiranipatti Village on specified dates.

2.The petitioner claims that he is an agriculturist. He states that he has the constitutional right to offer worship at any public temple. By the impugned order, the petitioner contends that his constitutional right has been infringed by singling him out and denying him the right of worship. In this connection, by drawing reference to the status report filed by the second respondent, it is submitted that the second respondent has admitted that the petitioner was temporarily prevented from offering worship at the relevant temples. It is further contended that the impugned order cites only two reasons for preventing the petitioner from offering worship. The first of these reasons is the pendency of proceedings before the HR & CE authority with regard to the grant of first honours and the like at these temples. The second reason stated in the impugned order is the likelihood of law and order problems if the petitioner were to be permitted to worship at the said temples. With regard to the first reason, it is contended that the issue of grant of honours is a separate matter which is the subject matter of proceedings before the HR & CE authorities under Section 63(e) of the Act of 1959. As regards the likelihood of law and order problems, it is submitted that such problems cannot be a reason to prevent one individual from offering worship at these temples.

3.Mr.P.Subbaraj, learned counsel for the State, submits that the petitioner was temporarily prevented from offering worship on specific dates in view of the likelihood of law and order problems on that account. In any event, he points out that the relevant dates for which permission had been granted by the Thasildar have expired and therefore there is no impediment for the petitioner to request permission to offer worship at these temples any longer.

4.The fourth respondent submits that the present petition is an indirect method of claiming special privileges with regard to the three temples. As regards the right of worship, the fourth respondent states that nobody has prevented the petitioner from offering prayers at these temples and that the present dispute has been occasioned by the petitioner's endeavour to claim special privileges and honours at the temples. In specific, it is submitted that the petitioner insisted upon being given the fourth honour at the temple. The fourth respondent points out that the order of the Thasildar was procured by the petitioner by exercising undue influence on him just one day before the said officer's transfer. The fourth respondent also draws reference to the long history of litigation instituted by the petitioner and contends that the petitioner is a trouble maker who has disturbed the peace and



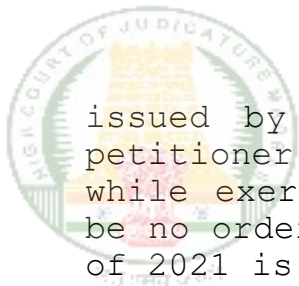
tranquillity of the village.

5.The impleading petitioner submits that two out of three temples are situated on lands owned by him. He also submits that the petitioner is abusing the process of law by attempting to obtain orders which would be misused so as to claim special privileges at these temples.

6.Upon consideration of the submissions of the parties before this Court, the limited question that arises for consideration is whether the order dated 19.07.2021 is liable to be interfered with and, if so, to what extent. Upon perusal of the order, it is clear that the operative portion thereof refers to the peace committee meeting that was held on 19.07.2021 and thereafter proceeds to record two reasons for restraining the petitioner from offering worship at these three temples. The first of the reasons is the pendency of proceedings before the HR & CE authorities in respect of the grant of honours at these temples. The second reason is the law and order problem. As regards the first reason, the documents on record reflect that there is an independent proceeding in that connection which is pending before the HR & CE authorities. Consequently, the decision as to whether the petitioner or any others would be entitled to honours at these three temples would depend on the outcome of such proceedings. At this point of time, the relief prayed for by the petitioner is confined to worship at the relevant temples. As regards the second reason, one individual cannot be restrained from worshipping at public temples by citing law and order problems. It would be a different matter if a public temple were to be temporarily shut on account of law and order problems, or even the Covid-19 pandemic.

7.Therefore, on the basis of the reasons cited in the impugned order, the petitioner's right to offer worship at these public temples cannot be restrained even for a limited period. To that extent, the impugned order calls for interference. However, it is made clear that the impugned order is not interfered with as regards the decision to set aside the permission granted by the Thasildar.

8.In conclusion, W.P.(MD).No.12695 of 2021 is disposed of by modifying the order impugned to the extent that the petitioner would be permitted to offer prayers at the three temples in question. It is needless to say that such right of worship should be exercised on such days and at hours when the said temples are open to other members of the public for worship. In addition, the petitioner would not be entitled to any special privileges, including honours. Such matters would have to abide by the outcome of the proceedings pending before the HR & CE authorities. Moreover, the petitioner is not entitled to celebrate any festivals except in accordance with orders issued by the Government in such regard. The aforesaid rights of worship will also be subject to the condition that the petitioner shall observe appropriate behaviour and complies with the protocol



issued by the Government in such regard. It is hoped that the petitioner will ensure that no law and order problems are created while exercising his right of worship at these temples. There will be no order as to costs. Consequently, connected W.M.P.(MD).No.10213 of 2021 is closed.

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Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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.

To

1.The District Collector,
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Madurai.

2.The Sub Divisional Magistrate cum Revenue Divisional Officer,
Melur
(having office at Narasingampatti)
Madurai District.

3.The Thasildar,
Melur Taluk,
Madurai District.

+2 CC to M/s.A.THIRUMURTHY, Advocate (SR-27422[F] dated 26/08/2021)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-27451[F] dated 26/08/2021)

+1 CC to M/s.The Special Government Pleader (SR-27402[F] dated 26/08/2021)

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