



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P. (MD)No.16162 of 2020

and

W.M.P. (MD)Nos.13533 and 15030 of 2020

Lawrence

...Petitioner

/Vs./

1.The District Collector,
Nagercoil, Kanyakumari District.

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

3.The Tahsildar,
Vilvancode, Kanyakumari District.

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

5.S.Mariya Arul Dhas

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Ceritiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent made in Letter No.D.Dis.C3/42155/2019, dated 13.10.2020 and quash the same and consequently, direct the first respondent to grant permission to the petitioner to conduct prayer in the petitioner's premises.

For Petitioner : Ms.J.Anandhavalli

For R1 to R4 : Mr.S.Manikandan,
Government Advocate.

For R5 : Mr.S.Palanivelayutham

ORDER

The challenge is made to the rejection order passed by the first respondent, rejecting permission to conduct prayer in the house of the petitioner.

2.The petitioner is practising Penthacoste Christianity. On earlier occasion, permission was sought for by the petitioner with the first respondent. The first respondent, by an order dated 15.02.2015, has rejected the permission, which was challenged before



this Court in W.P.(MD)No.5535 of 2015, wherein this Court, by an order dated 18.02.2020, set aside the order passed by the first respondent. While setting aside the order passed by the first respondent, this Court has made some observations, which reads as follows:-

"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 rights and 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."

3.Further, this Court had directed the first respondent to consider the representation of the petitioner afresh and pass orders. Once again, the first respondent has rejected permission mainly on the objections made by the 5th respondent, who belongs to Roman Catholic and also reports from the Revenue Divisional Officer and Village Administrative Officer. The 5th respondent made objections mainly targeting the ground that the petitioner is not only using loud speaker but also luring the people to Penthacoste. The objections are upheld by the first respondent with the reports of the Revenue Divisional Officer and Village Administrative Officer and once again the first respondent has rejected the permission.

4.This Court is of the view that while allowing the Writ Petition on file, this Court has held that the petitioner is



certainly entitled to conduct prayer meeting in his residential premises, which is not prohibited. The Court, in fact, while setting aside the order of the first respondent, directed the first respondent once again to consider the right of the petitioner and otherwise there was a positive direction issued by this Court. Once again the same was rejected mainly on the ground of objections raised by the 5th respondent. It is very clear that in fact the 5th respondent, practising different faith in Christianity is not in favour of other sect, conducting prayer. Further, their apprehension is that allowing such prayer will lead to conversion of Roman Catholic into Penthocoste.

5. During the submissions on the last hearing (31.03.2022), it came to light that the 5th respondent is also conducting prayer without any permission being granted by the first respondent. It was the submissions of the learned counsel for the 5th respondent on the last hearing that as the church was established in the year 1972, they have been continuing prayers from the inception of the church.

6. This Court has also recorded the finding that when the 5th respondent is allowed to conduct prayer without any permission from the first respondent, rejecting the similar prayer sought by the petitioner is nothing but discrimination. Therefore, this Court is of the view that the first respondent has, in fact, ignored the positive direction of the entitlement of the petitioner to conduct prayer issued by this Court. The distance between the petitioner premises and church is 180 meters. Therefore, mere conducting prayer within his premises, no one would be prejudiced after all practising particular religions or practice is an individual choice of the persons.

7. In such view of the matter, this Court is of the view that taking note of the discriminate attitude shown by the first respondent, ignoring the positive directions given by this Court in the Writ Petition referred supra, the impugned order of the first respondent is hereby set aside and the petitioner is entitled to conduct prayer meeting in his residential premises without using any loud speaker.

8. It is made clear that in the name of conducting prayer, there should not be any nuisance to the public. It is for the first respondent and police authorities to ensure that no law and order problem occurs in the particular area. It is also to be noted that the 5th respondent is also conducting prayer without any licence being granted by the first respondent. The 5th respondent is also hereby restrained from using any loud speaker, so that the balance would be stuck between the two groups.



9. With this direction, this Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Sd/-

Assistant Registrar (RTI)

/ /2022

Sub Assistant Registrar(CS)

Myr

To

1. The District Collector,
Nagercoil, Kanyakumari District.
2. The Revenue Divisional Officer,
Padmanabhapuram, Kanyakumari District.
3. The Tahsildar,
Vilvancode, Kanyakumari District.
4. The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J. ANANDHAVALLI, Advocate (SR-19962[F]
dated 21/04/2022)

+1 CC to M/s.S. RAMAKRISHNAN, Advocate (SR-19956[F]
dated 21/04/2022)

W.P. (MD)No.16162 of 2020
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SG (CO)
GC (02.05.2022) 4P 8C