



W.P(MD)No.17916 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P(MD)No.17916 of 2022

N.Visu

...Petitioner

Vs.

1.The District Collector,
Kanyakumari District,
Nagercoil.

2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the first respondent herein to give permission to the petitioner to conduct Two-Wheeler National Flag Rally on 15.08.2022 at about 2.00 p.m. from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari as a part of celebration of Amrit Mahotsav by considering the petitioner's representation, dated 02.08.2022.

For Petitioner : Mr.P.Sivachandran
For Respondents : Mr.Veerakathiravan
Addl. Advocate General
assisted by
Mr.M.Sakthikumar
Government Advocate (crl.side)



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ORDER

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This writ petitioner filed this Writ Petition seeking for issuance of a Writ of Mandamus to direct the first respondent herein to give permission to the petitioner to conduct Two-Wheeler National Flag Rally on 15.08.2022 at about 2.00 p.m. from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari as a part of celebration of Amrit Mahotsav by considering the petitioner's representation, dated 02.08.2022.

2.Mr.M.Sakthikumar, learned Government Advocate (Criminal Side) takes notice for the respondents. By consent, this writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an organizer of Amrit Mahotsav Festival Committee, Vivekananda Kendram, Kanyakumari. The Vivekananda Kendram works to create the awareness for the need of organized work for regeneration of nation. In order to celebrate 75th years of Independence Day, the petitioner organization is decided to conduct several activities for the college students in order to develop National Consciousness. In pursuance of the 75th Year Independence Day, the Amrit Mahotsav



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committee decided to conduct a Two Wheeler Nation Flag Rally on 15.08.2022 at about 2.00 p.m from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari through college students and proposed to take rally with 100 volunteer college students and closing ceremony will be conducted at Sunrise Point, Vivekananda Kendram. Hence, they are seeking permission by giving representation dated 02.08.2022 to the respondents. Since the first respondent is not inclined to give permission to conduct rally, the petitioner is filed this petition seeking the above said relief.

4.The learned Additional Advocate General appearing for the respondent police by filing a counter submitted that the rally is covered approximately 54 kilometers. When 100 two wheelers were permitted, there will be 500 members would participate. It would cause huge inconvenience to the general public and there is an apprehension of possibility of breach of public peace and law and order and it would also hindrance to the movement of traffic and in the road, many hospitals and schools are situated. It is a main way to connect Thiruvandrum to Kanyakumari National Highway road. He further submitted that the Kanyakumari District is the one of the religious sensitive districts. After



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Mondaicade incident in 1982, various restrictions with regard to religious and communal functions are in force. He further submitted that Justice Venugopal Committee Report also recommended to ban religious processions in the sensitive areas. He further submitted that routes fixed by the petitioner for the Two Wheeler National Flag rally from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari is highly religious and communal sensitive area. He further submitted that on the route, there are 50 Hospitals, 32 Schools, 15 Colleges, Bishop house, 36 Churches, 10 Mosques etc. Rally over 54 kilometers may create untoward incidents. Further, on August 15th Day, the entire District Administration will be fully engaged in various activities in conducting the Independence Day Celebration. Therefore, during the Independence Day Celebration Two-Wheeler National Flag Rally may not be permitted. Hence, the learned Additional Advocate General prays for dismissal of this petition.

5. In support of his arguments, the learned Additional Advocate General relied upon the following Judgments of the Hon'ble Supreme Court and this Court :-



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(1) W.A(MD)No.798 of 2022 (The Superintendent of Police vs. Shanthakumar),

(2) (1973) 1 Supreme Court Cases 227 (Himat Lal.K.Shah vs. Commission of Police and

(3) (2020) 10 Supreme Court Cases 439 (Amit Sahni (Shaheen Bagh. In Re) vs. Commissioner of Police and others)

6. I have considered the rival submissions of the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondent police.

7. On perusal of the records shows that the petitioner is an organizer of Amrit Mahotsav Festival Committee, Vivekananda Kendram, Kanyakumari and they are seeking permission from the respondents by way of its representation dated 02.08.2022 for conducting Two-Wheeler National Flag Rally on 15.08.2022 at about 2.00 p.m. from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari as a part of celebration of Amrit Mahotsav in view of celebration of 75th Independence Day. I have considered the counter filed by the respondents and submissions made by the learned Additional Advocate



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General. The main objection is that the proposed Two-Wheeler National Flag Rally to be held on 15.08.2022 at about 2.00 p.m. from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari is covered 54 kilometers road. If 100 two-wheelers are permitted for rally, approximately 500 members will move then and there is a possibility of breach of public peace and law and order and also hindrance to the movement of the traffic, since on that way there are 50 Hospitals, 32 Schools, 15 Colleges, Bishop house, 36 Churches, 10 Mosques etc. were situated.

8. The Apex Court, in the case of **Babulal Parate v. State of Maharashtra** reported in **AIR 1961 SC 884**, had observed that the right of the citizens to take out processions or to hold public meetings flows from the right in Article 19(1)(b) to assemble peaceably and without arms and the right to move anywhere in the territory of India.

9. Therefore, it is a right, which can be regulated in the interest of all, so that all can enjoy the right. No doubt, the State has the power under Section 30(2) of the Police Act, 1861, to regulate public assembly and procession, but it must not, in the guise of regulation, be abridged, be denied.



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10. Further, the Hon'ble Division Bench of this Court in the case of **Ramasamy Udayar Vs. The District Collector and Others** reported in **(2021) 2 LW 908** while considering the temple celebration and procession of a Temple declared the following observation:-

“26.Hence, it is hereby declared,

1.Once it has been declared by the authorities as roads or streets as per Section 180-A of the District Municipalities Act, the roads and streets which are "secular", should be used as roads by all the people irrespective of their religion, caste or creed.

2.Any procession including religious procession shall be conducted through all the roads and streets without any restriction.

3.Any procession including religious procession cannot be prohibited or curtailed merely because another religious group is residing or doing business in the area predominantly.

4.There cannot be a prohibition for any procession including religious processions through roads by the District administration or police authorities and there can be only regulation by the police or other Government authorities to see that no untoward incident occurs or any law and order problem arises.



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5. Every religious group has got fundamental right to take out religious procession through all the roads without insulting the other religious sentiments and without raising any slogans against other religious groups, affecting their sentiments, public law and order.

6. Merely because there is one place of worship belonging to other religious group, the same cannot be a ground to decline/deny permission to conduct procession including religious procession of other religions to go through those roads or streets.

7. The presence of religious structures/places of worship cannot take away the right of other religious groups who have been enjoying all the rights including the conduct of religious procession for the past many years.

8. The criminal cases filed against both the parties are directed to be withdrawn.”

11. Therefore, the reasons stated for denying to grant permission to conduct two-wheeler national flag rally by the learned Additional Advocate General is not acceptable one.

12. In view of the above, since the petitioner is seeking permission to conduct two wheeler National Flag Rally on 15.08.2022 at about 2.00



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p.m. from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari as a part of celebration of Amrit Mahotsav and the participants are all college students and they are not belongs to any political parties, permission is granted to the petitioner's organization to conduct two wheeler National Flag Rally on 15.08.2022 at about 2.00 p.m from Kaliyakkavilai to Vivekananda Kendram, Kanyakumari as a part of celebration of Amrit Mahotsav. It is directed to the respondents to provide necessary police protection and regulate the rally for maintaining the law and order and convenience to the public.

13. With the above direction, this Writ Petition is allowed.

12.08.2022

Index : Yes / No
Internet : Yes/ No
vsd

Note: Issue Order Copy on 12.08.2022



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To

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- 1.The District Collector,
Kanyakumari District,
Nagercoil.
- 2.The Superintendent of Police,
Kanyakumari District,
Nagercoil.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM., J

vsd

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