



W.P(MD)No.19392 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.P(MD)No.19392 of 2022

Paramasivan

...Petitioner

Vs.

1.The Superintendent of Police,
Trichy, Trichy District

2.The Deputy Superintendent of Police,
Manaparai Division,
Trichy District

3.The Inspector of Police,
Thuvarangurichi Police Station
Trichy District

...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 pertaining to the impugned order dated 18.08.2022 on the file of the 3rd Respondent and quash the same as illegal and further directing the Respondents to grant permission to conduct Krishna Jayanthi Rally from Shri Boodanayagi Amman Temple, Thuvarankuruchi to Bus Stand, Thuvarankuruchi on 28.08.2022 from 4 pm to 7 pm.

For Petitioner : Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Jeyamohan



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For Respondents : Mr.Veerakathiravan
Additional Advocate General
Assisted by
Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order, dated 18.08.2022 on the file of the third Respondent and quash the same as illegal and further direct the Respondents to grant permission to conduct Krishna Jayanthi Rally from Shri Boodanayagi Amman Temple, Thuvarankuruchi to Bus Stand, Thuvarankuruchi on 28.08.2022 from 04.00 p.m., to 07.00 p.m.

2. Mr.E.Antony Sahaya Prabahar. learned Additional Public Prosecutor 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 the President of Viswa Hindu Parishad. In Thuvarankurichi Village, they celebrate Krishna Jeyanthi Thiruvizha in a



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grand manner. This year also, they celebrated the festival in a grand manner peacefully in the village. Further, this year, they propose to celebrate Krishana Jeyanthi Thiruvizha on 19.08.2022 from evening 04.00 p.m., to 07.00 p.m., by conducting rally from Shri Boodanayagi Amman Temple, Thuvarankuruchi to Bus Stand, Thuvarankuruchi and thereafter to hoist a flag at the Bus stand, Thuvarakkurichi. For this purpose, he sought permission from the third respondent to provide police protection. Permission petition of the petitioner was rejected by the third respondent police, by its order, dated 18.08.2022 vide C.No. 06/F30/TVK PS/2022, which is unsustainable.

4. The learned counsel further submitted that Police Standing Order 30(2) deals about controlling any event of breach of peace. Since the alleged rally on behalf of Krishna Jeyanthi festival children are being dressed as Lord Krishna, there is no scope for any law and order problem in the present event. The respondent police mechanically rejected their representation received stating that there is a law and order problem. The entire stretch of rally proposed to be conducted is only one kilometre. Hence, the unreasonable order passed by the third respondent may be set side and permission may be granted directing the police to provide police



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protection for the proposed rally from Shri Boodanayagi Amman Temple, Thuvarakuruchi to Bus Stand, Thuvarakuruchi on 28.08.2022. In support of his arguments, he placed reliance upon the judgment of this Court in W.P(MD) No.18554 of 2022, dated 16.08.2022.

5. The learned Additional Advocate General objected to grant permission and supported the impugned order. He further submitted that the proposed rally from Shri Boodanayagi Amman Temple, Thuvarankuruchi to Bus Stand, Thuvarankuruchi on 28.08.2022 cannot be permitted since on the enroute, there is Dharka and Church. There will be some law and order problem while crossing Dharka. Further, the proposed rally is a new function and previously, they have not conducted any rally while conducting Krishna Jeyanthi Thiruvizha. They have no objection to celebrate the Krishna Jeyanthi Thiruvizha within the temple premises. The rally in the public road will cause communal problem and law and order problem.

6. I have considered the submission of the learned Senior Counsel appearing for the petitioner and the learned Additional Advocate General appearing for the respondents police.



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7. A perusal of the records and the impugned order passed by the third respondent reveals that the petitioner is the President of Viswa Hindu Parishad and they proposed to celebrate Krishna Jeyanthi Thiruvizha on 19.08.2022 from evening 04.00 pm., to 07.00 pm., by conducting rally from Shri Boodanayagi Amman Temple, Thuvrankuruchi to Bus Stand, Thuvrankuruchi and thereafter, to hoist flag at bus stand, Thuvarkuruchi. In this connection, they gave representation to the third respondent, seeking permission and also to provide police protection, which was dismissed by the third respondent police, by passing an impugned order, in which, they have stated that if the rally is permitted, traffic will be affected and the order passed under Section 30(2) of the Police Standing Order is in force and hence, denied the permission.

8. Thus, the respondent police stated that if the rally is permitted, traffic will be affected and the order passed under Section 30(2) of the Police Standing Order is in force, and there is possibility of law and order problem.



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9. I have considered the impugned order. The proposed rally is in a public road. It is not disputed. Further, while arguing the matter, the learned Additional Advocate General submitted a map. The learned Senior Counsel also submitted a plan to show the route in which, the proposed rally is to be conducted. From the perusal of the map, it is clear that in the proposed road, there is Bakrudeen Aandavar Dargah and St.Joseph's Church. There is no material to show that if the rally is permitted, there will be communal problem because of Dargah and Church, as they are situated near to the public road. Further, in the impugned order, the respondent police had not set out the apprehension of communal riot from the Church and Dargah. Therefore, the arguments placed by the learned Additional Advocate General, in this regard are not acceptable. Further, the learned Additional Advocate General submitted that the proposed rally in pursuance of Krishna Jeyanthi Thiruvizha is a new one and it is not acceptable one. Now-a-days, it is known to all, everybody celebrate function every year newly and in a new dimension. Therefore, one cannot ban any celebration conducted newly by the public in new manner peacefully and hence, the arguments of the learned Additional Advocate General is not an acceptable one. The apprehension expressed in the impugned order that there will be law and order



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problem and traffic will be affected, is also not acceptable and there is no sufficient reason for rejecting the permission.

10. In our democratic secular country religious right is given to all people. Article 25 of the Constitution of the India guarantees to every person right freely to profess, practise and propagate religion. This fundamental right is guaranteed in our constitution.

11. It is worth to quote the decision of the Hon'ble Division Bench of this Court in the case of ***Ramasamy Udayar vs. The District Collector, Perambalur and others in W.A.Nos.743 and 2064 of 2019 dated 30.04.2021***. In this case, the learned Judge has declared as follows:

“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.W.A.Nos.743 & 2064 of 2019

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



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or other Government authorities to see that no untoward incident occurs or any law and order problem arises.

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”

12. In this case, the objection of the learned Additional Advocate General to grant permission only on the ground that on the enroute place, there is Dhargah and Church and therefore, the religious procession may cause law and order problem, is unsustainable as it is not supported by any material.

13. In view of the above facts and legal decision, the impugned order dated 18.08.2022 passed by the third respondent is hereby set aside. The petitioner is hereby permitted to conduct rally from Shri Boodanayagi Amman Temple, Thuvarankuruchi to Bus Stand, Thuvarankuruchi on 28.08.2022 from 04.00 p.m., to 07.00 p.m.,. The



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third respondent police is hereby directed to provide sufficient police protection and to maintain law and order during the said function.

14. With the above direction, this writ petition is disposed of.

No costs.

24.08.2022

Index : Yes / No

Internet : Yes/ No

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Note: Issue order copy on 24.08.2022

To

- 1.The Superintendent of Police,
Trichy, Trichy District
- 2.The Deputy Superintendent of Police,
Manaparai Division,
Trichy District
- 3.The Inspector of Police,
Thuvarangurichi Police Station
Trichy District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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