



WEB COPY

W.P(MD).No.22550 of 202



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2022

CORAM

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P(MD).No.22550 of 2022

P.Balamurugan

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Sub Collector,
Sub Collector Office,
Sivakasi,
Virudhunagar District.
- 3.The District Forest Officer,
The District Forest Office,
Virudhunagar District.
- 4.The Assistant Conservator Forest,
Conservator of Forests,
Virudhunagar Circle,
187, Malaipettai Street,
Virudhunagar District.
- 5.The Forest Ranger,
The Forest Range,
Srivilliputhur Range,
Virudhunagar District.
- 6.The Wildlife Warden,
Grizzled Squirrel Wildlife Sanctuary,
Srivilliputhur,
Virudhunagar District.

...Respondents



W.P(MD).No.22550 of 202

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to grant permission and necessary protection to worship the goddess Arulmigu Pemalaiyamman @ Rakkatchi Amman temple on the Tamil Month of Puratasi (October) situated at Srivilliputhur Forest Range, Virudhunagar District based on the Petitioner's representation, dated 07.09.2022.

For Petitioner : Mr.D.Selvanayagam
For Mrs.M.Shobana
For Respondents : Mr.R.Ragavendran
Additional Government Pleader

ORDER

This writ petition has been filed praying for a writ of Mandamus directing the Respondents to grant permission and necessary protection to worship the goddess Arulmigu Pemalaiyamman @ Rakkatchi Amman temple on the Tamil Month of Puratasi (October) situated at Srivilliputhur Forest Range, Virudhunagar District based on the Petitioner's representation, dated 07.09.2022.

2. The Petitioner claimed to be a resident of a village called Idaiyankulam, Srivilliputhur Taluk, Virudhunagar District and belongs to a particular community. It is a further case of the Petitioner that, there is a community deity, namely Arulmigu Pemalaiyamman @ Rakkatchi Amman, situated on the top of the mountain in a reserved forest area, under the control



of Respondents 3 and 5. Within the said forest, especially in the area, where the said temple is situated, there is a Grizzled Squirrel Wildlife Sanctuary.

WEB COPY

3. In view of the said strategic location within the forest area, though the practice of worshipping the community diety by the Petitioner's community every year in the Tamil month of Puratasi, ie., October to November, which practice according to them, had been prevalent for centuries. They submitted a representation, dated 07.09.2022 seeking permission to visit the temple for annual festival. It is submitted that the Petitioner had faced difficulties in obtaining permission even in the past and had to approach this Court.

4. In 2019, writ petition in W.P.(MD)No.17626 of 2019 was filed by one Selvakumar, which was decided by a Division Bench of this Court by order dated 13.08.2019, wherein, the Division Bench has passed the following order.

“8.This Court considering the facts and circumstances is inclined to pass the following orders with directions:

(i) The second respondent shall accord necessary permission to 21 devotees identified by the petitioner from among the list of 86 devotees found in the additional typed set of papers dated 13.08.2019.



WEB COPY

W.P(MD).No.22550 of 202



(ii) *The second respondent shall depute necessary Forest Personnels to accompany them to visit and worship the above said temple on 14.08.2019 and the necessary expenses for them shall be borne out by the petitioner.*

(iii) *The petitioner and other devotees, who are permitted to go shall not create any law and order problem and shall adhere to the instructions and guidelines given by the Forest Personnels, who will accompany them.*

(iv) *In the event of any unforeseen mishap happens, the petitioner and other devotees may not be entitled for any compensation or Government employment for the reason that on their own volition they are going to the said Temple, which is located in the midst of Grizzled Squirrel Wildlife Sanctuary.*

(v) *The second respondent apart from the said conditions is at liberty to impose such or other reasonable conditions in this regard.*

(vi) *It is also made clear that this order came to be passed taking into account the significance of the peculiar facts and circumstances and the petitioner or the worshippers of the deity shall not claim any right or future claim as to the right of their worship.*

9.This Writ Petition is disposed of accordingly. Consequently, connected Writ Miscellaneous Petitions are closed. No costs."



WEB COPY

5. It is the further case of the Petitioner that, since every year during the festival season, ie., October – November, the Petitioner community is facing the above difficulty, a representation dated 31.12.2020 was submitted seeking permanent permission from the authorities to have entry through the forest land to reach the deity and to have a darshan once in a year. The said common representation given on behalf of the community people of the village concerned, was forwarded by the communication dated 07.01.2021 by the first respondent to the second respondent, the same is still pending consideration before the authorities.

6. In the meanwhile, for this year viz., 2022, the annual festival has to be conducted in the Tamil month of Puratasi. A representation dated 07.09.2022 was filed seeking temporary permission for this year as well by the Petitioner on behalf of his community with a copy marked to all the Respondents, especially the Respondents 3 and 6. However, since the said representation has not been considered, the Petitioner has approached this Court by filing the present writ petition.

7. Heard learned counsel for the Petitioner, who having reiterated the aforesaid facts, would submit that, though the permission sought for on



permanent basis has been pending consideration before the authorities, insofar as the present year is concerned, the representation given by the Petitioner dated 07.09.2022 can be directed to be considered and accordingly permission can be given of course by imposing the conditions already given by this Court by the Division Bench order as referred to above. As a matter of fact for the previous year viz., 2020-2021, faced with similar situation, the Petitioner approached this Court in W.P.(MD)No.17475 of 2021. The learned Single Judge after taking note of the Division Bench order of this Court referred supra proceeded to issue a Mandamus directing the Respondents to dispose of the representation after referring to the Provisions of the Wild Life Protection Act, and the prohibition/restrictions contained therein. The learned Single Judge was pleased to dispose of the writ petition with the following observation.

“20. In that view of the matter, this Court is inclined to dispose of this Writ Petition with the following order:

That there shall be a direction to the respondents 1, 3 and 6 to consider and decide the representation of the petitioner dated 15.09.2021 and in this regard, after getting the nod from the Chief Wild Life Warden, as contemplated under Section 28 of the Wild Life (Protection) Act, 1972, the respondents 1,3 and 6 shall decide and pass orders on the said representation, with regard to the permission to be granted for them for visiting the temple, which is situated in the reserved forest area as referred to above. Such order shall be passed with a period of two (2) weeks from the date of receipt of copy of this order. It is made clear that incase the respondents come forward to give such permission, after considering



WEB COPY

W.P(MD).No.22550 of 202



the representation of the petitioner, in the light of the discussion made above, it is open to the respondents to adopt the same conditions as has been imposed by this Court by order dated 13.08.2019 in W.P.(MD)No. 17626 of 2019, especially in para 8 and also, it is open to the respondents to put additional conditions. Accordingly, such order can be passed within the time frame as indicated above.

21. With these directions, this Writ Petition is disposed of. No costs.”

8. The learned counsel for the Petitioner and the Respondents would submit that similar orders may be passed in the present writ petition as well and the learned counsel for the Respondents would further submit that the representation would be disposed of on or before 29.09.2022.

9. In view of the submission by the counsel for the Petitioner and the Respondents, this writ petition is disposed of directing the Respondents 1, 3 and 6 to dispose of the representation of the Petitioner, dated 07.09.2022 in accordance with law on or before 22.09.2022 keeping the order of the Division Bench of this Court in W.P(MD)No.17626 of 2019, dated 13.08.2019 and the learned Single Judge in W.P(MD).No.17475 of 2021, dated 27.09.2021 in mind.



10. With the above observations, the writ petition is disposed of. No costs.

WEB COPY

26.09.2022

Index : Yes / No
Internet : Yes/ No
sn

Note: Issue order copy on 27.09.2022

To

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Sub Collector,
Sub Collector Office,
Sivakasi,
Virudhunagar District.
3. The District Forest Officer,
The District Forest Office,
Virudhunagar District.
4. The Assistant Conservator Forest,
Conservator of Forests,
Virudhunagar Circle,
187, Malaipettai Street,
Virudhunagar District.
5. The Forest Ranger,
The Forest Range,
Srivilliputhur Range,
Virudhunagar District.
6. The Wildlife Warden,
Grizzled Squirrel Wildlife Sanctuary,
Srivilliputhur, Virudhunagar District.

MOHAMMED SHAFFIQ, J.

sn



WEB COPY



W.P(MD).No.22550 of 202

W.P(MD).No.22550 of 2022

26.09.2022