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W.P.No.33535 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM :

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.33535 of 2017 and

W.M.P.No.37053 of 2017

V.Jeeva

..

Petitioner

vs

1. The District Collector
Coimbatore District
Coimbatore - 641 018.

2. The Revenue Divisional Officer
Pollachi, Coimbatore – 641 018.

3. The Thasildar
Pollachi, Coimbatore – 641 402.

..

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus, forbearing the respondents from interfering with the petitioners right to conduct of religious prayer meeting at S.No.152/A2, Bethel Thotam, Vigneshwara School opp. Road, Angalakurich Village, Pollachi Taluk, Coimbatore District.

For the Petitioner : Mr.P.Subramanian

For the Respondents : Mr.T.Arunkumar
Additional Government Pleader
for respondents 1 to 3



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ORDER

The writ on hand has been instituted to forbear the respondents from interfering with the petitioners right to conduct of religious prayer meeting at S.No.152/A2, Bethel Thotam, Vigneshwara School opp. Road, Angalakurich Village, Pollachi Taluk, Coimbatore District.

2. The petitioner states that he is the owner of the property bearing Survey No.152/A 2 situated at Bethel Thotam, Vigneshwara School opp. Road, Angalakurich Village, Pollachi Taluk comprising of 2.5 Acres. The petitioner constructed a building and residing along with his family members. The petitioner states that he is rendering religious, ministry and Gospel work propagating Christianity in his native village and surrounding community. The petitioner, along with his wife and one Lilly formed a Trust under the name and style of “Eternal Light Ministries Trust” and have been conducting regular prayer meetings from 2002 on Saturdays, Sundays in Bethel Praise and Worship Church and on all holy days of the year in the above said property.



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3. Being the Founder Trustee/Managing Trustee along with two other Trustees, the Trust Board was constituted. The petitioner constituted the Trust with an object to serve the Indian Christians and to those who have faith in Jesus Christ. The object of the Trust reveals that the Trust was constituted for the purpose of promoting religious activities. The petitioner has been conducting prayer meeting in his house and the said prayer meetings in his house was objected by the third respondent and they have started creating troubles so as to disturb the smooth conduct of religious activities and meetings in his house. Since there were frequent disturbances and troubles caused to the petitioner by the other villagers, he approached the Madurai Bench of the Madras High Court in W.P.(MD) No.10782 of 2006, where he got an order in his favour. The grievance of the petitioner is that, till now, the third respondent has not passed any order with regard to the outcome in W.P.(MD) No.10782 of 2006, but is preventing the petition from conducting the prayer in his house. Thus, the petitioner is constrained to move the present writ petition.



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4. The learned counsel for the petitioner contended that the petitioner is conducting meetings and prayers in his house and he is not causing any disturbance to the other residents of that village. Therefore, the Competent Authorities and the Police Authorities are unnecessarily interfering with the religious activities of the petitioner. Thus the petitioner is entitled for the relief as such sought for in the present writ petition.

5. The learned Government Advocate appearing on behalf of the respondents made a submission that the prayer meetings and other religious activities are to be conducted only after obtaining permission from the Competent Authorities in accordance with the Statute and the Rules. Such larger prayer meetings cannot be conducted in a residential house and in the event of any complaint by the neighbours, the Authorities are bound to initiate action in accordance with law.

6. It is further submitted that the petitioner has constructed a



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residential house in a residential area and has illegally converted it into a 'Public Meeting Hall' and 'Payer Hall' without any prior intimation and permission from the concerned Authorities. The petitioner's act has caused immense sufferings to the people of the locality, especially to the children and the elderly, as the unauthorised meetings are conducted in his residence with more than one hundred persons, mostly outsiders to the village, gathering at least twice in a week and thereby causing public nuisance by way of noise pollution. This has led to the disturbance of public peace and tranquility in that residential area causing frequent law and order issues between the outsiders visiting the residence of the petitioner and the villagers.

7. The larger issue to be considered by this Court is about the religious right, which is described under Article 25 of the Constitution of India. Article 25 of the Constitution under sub clause (1) stipulates that “subject to public order, morality and health and to the other provisions of Part III of the Constitution, all citizen are equally entitled to freedom of



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conscience and the Right freely to profess, practice and propagate religion”,
Thus the 'Fundamental Right' under Article 25 of the Constitution of India
is subject to public order, morality and health.

8. Right to life under Article 21 is an absolute Fundamental Right and exercise of Fundamental Right under Article 25 is undoubtedly subject to the Right to Life enunciated under Article 21 of the Constitution of India. Thus, every citizen while exercising the Right under Article 25 is duty bound to borne in mind that the Right to Life of other citizen is to be respected. Violations in this regard are actionable. Thus, Article 25 of the Constitution of India imposes certain restrictions for the exercise of religious Rights, which is subject to public order, morality and health, which includes other issues in the interest of public and the Authorities Competent in the event of violations are empowered to initiate action. Thus creating nuisance is an offence punishable under the Indian Penal Code. Noise pollution over and above the prescribed level under the Rule is also an offence, which is actionable under the relevant provisions of the Statute



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and the Rules in force. Construction of any Religious Institutions without proper approval or permission under the relevant Statute also requires action under law. If at all such violations are noticed, the Authorities Competent are bound to initiate action for unauthorised usage or unauthorised construction or for other offences under any other law in force.

9. No person can be allowed to commit any illegality merely on the ground of sentiments of the people or under the guise of religious Rights. Any such sentiments leading to illegality can never be tolerated by the State and its Authorities. Any leniency would lead to infringement of Fundamental Rights of the other citizen and therefore, the State is duty bound to ensure that all such religious Rights are being exercised by the citizen in the manner contemplated and within the parameters prescribed under the Statute and the Rules.

10. Merely by creating sentiments in the public or in any religious places, no person can be allowed to carry on any such illegal activities or



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otherwise. Encroachments, usage of loudspeakers causing disturbance and nuisance are to be viewed seriously and all necessary actions are to be initiated for the purpose of controlling such activities thereby enabling the public at large to live peacefully and enjoy their Fundamental Rights.

11. Unity in diversity is the principle enunciated under the Indian Constitution. Unity can be preserved only when the Authorities / Executives control the illegalities if any committed in the name of the religion or otherwise. The religious Rights are subject to conditions and restrictions and subject to the Fundamental Rights of other fellow citizen. Thus Article 25 of the Constitution of India can never be an absolute Fundamental Right since it is subject to the rights of other fellow citizen and to the laws, which all are in force.

12. Article 51-A of the Constitution of India enumerates Fundamental Duties of citizen, more specifically, Article 51-A (e) defines “to promote harmony and the spirit of common brotherhood amongst all the people of



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India transcending religious, linguistic and regional or sectional diversities to renounce practices derogatory to the dignity of women”. Therefore, no citizen shall cause any nuisance or trouble to the fellow citizen in the name of religion, language or region. It is the duty casted upon the citizen and therefore in the name of religion, no person can be allowed to create trouble in any locality. Right of Privacy has been conferred and its scope was also expanded by the Constitution Bench of the Supreme Court of India in residential areas. If religious activities in a large scale are practiced without getting proper permission, undoubtedly the same would result in causing nuisance and trouble to the neighbours and therefore, such activities are to be stopped forthwith by the Competent Authorities if they receive any complaint or noticed.

13. In our country, it is most common that many such Religious Institutions are causing nuisance and disturbances. Imagine a situation of any person after hard work going to bed for sleep and during mid night or early morning if he is disturbed on account of usage of loudspeaker



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certainly it creates not only mental agony, but also leads to mental depression. Thus, peaceful living and health can be ensured only if such irregular and illegal activities are controlled by the Authorities. Every citizen has got Fundamental Right of peaceful living and health being integral part of Article 21, which provides Right to Life. Thus the Authorities must ensure that such valuable Right to Life for all the citizen is protected and it is the duty of the State to provide such protection to every citizen of our Great Nation.

14. It is relevant to consider the Noise Pollution (Regulation and Control) Rules, 2000, which was published in the Gazette of India vide S.O. 123(E) dated 14.02.2000 and subsequently amended on 22.11.2000, 11.10.2002, 19.09.2006 and 11.01.2010 under the Environment (Protection) Act, 1986.

15. Under the Noise Pollution (Regulation and Control) Rules, 2000, the Authorities are bound to initiate action if violations are brought to their



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notice or complaints are made. Rule 2(c) defines 'Authority' means and includes any authority or officer authorized by the Central Government, or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police Commissioner, or any other officer not below the rank of the Deputy Superintendent of Police designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force”.

16. Rule 5 imposes restrictions on the use of loud speakers / public address system and sound producing instruments. Sub Rule (1) contemplates "a loud speaker or a public address system shall not be used except after obtaining written permission from the authority". Sub Rule (2) denotes “a loud speaker or a public address system or any sound producing instrument or a musical instrument or a sound amplifier shall not be used at night time except in closed premises for communication within, like auditoria, conference rooms, community halls, banquet halls or during a public emergency”.



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17. Rule 7 stipulates 'complaints to be made to the Authority'. Sub Rule (2) to Rule 7 contemplates “the Authority shall act on the complaint and take action against the violator in accordance with the provisions of these rules and any other law in force”.

18. Rule 8 provides “power to prohibit etc. continuance of music sound or noise” and Schedule provides “Ambient Air Quality Standards in respect of Noise”.

19. In respect of the actions to be initiated under Environment (Protection) Act, 1986, more specifically under Section 15 which provides 'Penalty for Contravention of the Provisions of the Act and the Rules, Orders and Directions'. The noise pollution, regulation and control rules are notified under the provisions of the Environment (Protection) Act, more specifically, by invoking Section 25. Thus if any violations of such Rules or directions are established/ proved, then penalty for contravention of the



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provisions of the Act and also the Rules are to be imposed.

20. Sub section (1) to Section 15 of the Environment (Protection) Act, 1986 contemplates “whoever fails to comply with or contravenes any of the provisions of this Act, or the rules made or orders or directions issued thereunder, shall, in respect of each such failure or contravention, be punishable with imprisonment for a term which may extend to five years with fine which may extend to one lakh rupees, or with both, and in case the failure or contravention continues, with additional fine which may extend to five thousand rupees for every day during which such failure or contravention continues after the conviction for the first such failure or contravention”.

21. Therefore, laws in force are to be enforced by the public authorities. It is not as if the laws are enacted for the purpose of keeping it in Books. Thus the Authorities are to be sensitised to protect the fundamental rights of every citizen of our Great Nation. Our Country had



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enacted effective and efficient laws in order to protect the Rights of our citizen. However, its implementation lacks. Thus, the Authorities are to be sensitised. They can never be allowed to take a partisan attitude in the matter of implementing the laws in force. Non implementation or improper implementation must be viewed seriously as it infringes the Rights of the citizen at large.

22. In a vibrant democracy, the Rights of the citizen are valuable and paramount importance. Of course Fundamental Duties are to be borne in mind and reminded off. Fundamental Duties under Article 51-A of the Indian Constitution must go together with the Rights and the duties are corresponding in nature and thus, exercise of Rights is to be done only keeping in mind the duties involved. Any Religious Institution exercising their Right must be reminded of their duties towards other citizen, whose Rights are also to be protected. Unfortunately such situation is not prevailing in our Great Nation in view of the lackadaisical approach of the Authorities in the matter of dealing with the violations and infringement of



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the rights.

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23. One may form an opinion that it would be sensitive if any actions are initiated. However, they are forgetting the other side that inaction will lead to disastrous consequences. Thus actions then and there on noticing the irregularities and illegalities are of paramount importance, which is the duty mandated on the authorities.

24. Importantly, Section 19 of the Environment (Protection) Act, 1986 contemplates 'cognizance of offences'. Accordingly a complaint is to be made by the persons. Thus sub clause (b) to Section 19 empowers the any person to give a complaint by issuing notice of not less than 60 days. Thus any person is empowered to send complaint in the manner prescribed.

25. This Court is of the considered opinion that all Religious Institutions must adhere to the Rule of law for the purpose of conducting their respective religious activities. Any such religious activities affecting



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the Rights of the other citizen and any infringement of Rights under the Constitution of India must be viewed seriously and all appropriate actions are to be initiated.

26. The prevailing situation cannot be brushed aside by this Court. The prevailing situation though painful, it is to be improved only through effective actions of the Public Authorities. There are many Religious Institutions across the State of Tamil Nadu, which are violating the noise pollution and Regulation Control Rules and the provisions of the other Statutes. However officials are insensitive in the matter of initiation of actions regarding such violations. Thus, the State is duty bound to sensitise the Authorities for the purpose of protection of the Fundamental Rights of the citizen of our Great Nation.

27. Ineffective implementation of Laws are to be deprecated. Laws are enacted to protect the Rights of the citizen under the Constitution. If such Laws are not implemented effectively, then the Authorities are



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committing an act of unconstitutionality. Thus, unconstitutionality is not only relatable to the provisions of the Statute, but also relatable to an ineffective or non-implementation of the Statutes resulting in violations of Rights of citizen. Thus, the Executives must act in consonance with the constitutional principles and the laws enacted for the purpose of protecting the Rights of the citizen, more specifically, with reference to the religious Rights.

28. In view of the fact that many such complaints are raised across the State of Tamil Nadu and many people are hesitating to inform and submit complaint in these aspects, as they are afraid of giving such complaints on account of religious sentiments, and due to fanatic approach of few fringe groups.

29. No doubt the petitioner has the Right to profess his choice of religion. However, he has no Right to cause infringement on the Rights of the other citizen to freely profess their choice of religion. Mutual respect



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amongst the citizen is the constitutional perspective and thus violation in any form by any citizen is undoubtedly actionable.

30. In the present case, the respondents have initiated actions then and there based on the complaints given by the villagers and they are bound to initiate appropriate and stringent actions to stop any such illegalities in that locality. The District Collector in this regard shall take note of the situation and issue necessary orders, protecting the Rights of the citizen in general and prevent all such illegal, irregular activities, if any causing nuisance, troubles etc., to the other citizen. Illegal constructions if any, to be demolished by following the procedures.

31. With the above said observations, the writ petition stands dismissed. However, there will be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

Index : Yes/No
Neutral Order: Yes/No
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S.M.SUBRAMANIAM,J.

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