



W.P(MD)No.7406 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.7406 of 2023

and

W.M.P(MD)Nos.6939 to 6941 of 2023

Aruppukottai Nadargal Uravinmurai

Pothu Abiviruthi Trust,

Represented by its Secretary (In Charge),

S.C. Saravanan,

No. 42, Big Bazaar Street,

Aruppukottai - 626 101.

... Petitioner

Vs.

1.The Director and Joint Secretary to Government,
Tamil Development and Information
(Exhibition) Department,
Fort St. George,
Chennai - 9.

2.The Commissioner of School Education,
College Road,
Chennai - 6.

3.The District Collector
Virudhunagar District,
Virudhunagar.



W.P(MD)No.7406 of 2023

4.The Executive Engineer
PWD Department (Building Division),
Virudhunagar.

5.The Revenue Divisional Officer,
Aruppukottai Revenue Division,
Aruppukottai.

6.The Tahsildhar
Aruppukottai Taluk,
Aruppukottai.

7.The Chief Educational Officer
Virudhunagar District,
Virudhunagar.

8.The District Educational Officer,
Aruppukottai,
Virudhunagar District.

9.The Commissioner
Aruppukottai Municipality,
Aruppukottai.

10.P.K.Kamaraj

11.P.M.C.Muthukumar

12.Y.Rajarathinam

13.P.M.C.Muthusamy

14.Ramar Nadar

15.V.Manoharan

16.S.A.K.P.Ravindran



W.P(MD)No.7406 of 2023

WEB COPY

17.J.Manimurugan

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the permission dated 25.03.2023 in letter No.2412 /Exhibition/2023 on the file of the Director and the Joint Secretary to Government, Tamil Development and Information (Exhibition) Department, Fort St. George, Chennai-9, the first respondent herein and the order dated 24.03.2023 in RC No.163/Inf./2023 on the file of the District Collector, Virudhunagar, the third respondent herein and quash the same.

For Petitioner : Mr.R.Ilayaraja

For Respondents : Mr.R.Baskaran,

Additional Advocate General
assisted by

Mr.J.Ashok - for R1, R3 to R6

Additional Government Pleader

Mr.M.Ramesh - for R2, R7 & R8

Government Advocate

Mr.N.Dilip Kumar - for R9

Mr.K.K.Kannan - for R10 to R17



W.P(MD)No.7406 of 2023

WEB COPY

ORDER

The Writ Petition has been filed in the nature of a Certiorari seeking records relating to permission dated 22.03.2023 in letter No. 2412/Exhibition/2023 on the file of the Director and Joint Secretary to Government, Tamil Development and Information (Exhibition) Department, Chennai, the first respondent herein and the order dated 24.03.2023 in R.C.No.163/Inf./2023 on the file of the District Collector Virudhunagar, third respondent herein.

2. The Writ Petitioner, is Aruppukottai Nadargal Uravinmurai Pothu Abiviruthi Trust, represented by its Secretary (In-charge) S.C.Saravanan, Big Bazar Street, Aruppukkottai. There was an earlier Writ Petition which had also come up before me for consideration on 21.03.2023, which is W.P.(MD) No.6227 of 2023 filed by the same Writ Petitioner. The respondents, 10 to 17 respondents herein namely, P.K.Kamaraj, P.M.C.Muthukumar, Y.Rajarathinam, P.M.C.Muthusamy, Ramar Nadar, V.Manoharan, S.A.K.P.Ravindran and J.Manimurugan, were also impleaded in the said Writ Petition as respondents 12 to 19.



W.P(MD)No.7406 of 2023

WEB COPY

The relief sought in that particular Writ Petition was for a Mandamus directing the respondents 1 to 11 therein, to consider the representation, dated 27.02.2023 and 09.03.2023 forbearing the respondents 12 to 19 namely, the individuals named above, from conducting Muthumariamman Panguni Ursavam Temple festival from 28.03.2023 at Aruppukkottai and Exhibition in SBK Boys' School ground from 26.03.2023 or any other date and it is stated that both the institution belong to Aruppukkottai Nadargal Uravinmurai Pothu Abiviruthi Trust.

3. In the present Writ Petition, the relief which has been sought in the nature of certiorari is again with respect to the very same festival which, after the order in the earlier Writ Petition, had been permitted to be conducted by the first and third respondents herein. In effect, the very same festival is sought to be prevented from being conducted, in the first place in the earlier Writ Petition, on the basis of a representation and now on the basis of the order passed by the respondents 1 and 3. When the earlier Writ Petition came up, this Court after hearing the learned counsels for the respective parties had stated as follows :



W.P(MD)No.7406 of 2023

"2. There is a School at Aruppukottai, which is run by Aruppukottai Nadargal Uravinmurai Pothu Abiviruthi Trust. The said School is called as S.B.K.Higher Secondary School. Unfortunately, owing to various circumstances, there appears to be a power struggle among the office bearers of the Abiviruthi Trust. This has led to various litigations which are pending.

3. The issue in this Writ Petition is that in that School campus, a function is to be held in the nature of an exhibition. Additionally, there is also a festival to be conducted owing to the ensuing days in Panguni Tamil Month.

4. The petitioner have their grievances. They claim that the respondents 12 to 19 should not be the persons who could conduct the festival or the exhibition. They claim that the issue of the competency or locus of the said respondents, is pending before the civil Court.

5. This Court is not entering into any discussion about that particular aspect. However, as a concept, if the exhibition and the festival are to



WEB COPY



W.P(MD)No.7406 of 2023

be conducted within the School premises, permission for the same will have to be examined by the District Collector and by the Joint Commissioner of HR & CE (Admn) Department, Madurai. Representations in this regard have been given by the petitioner herein. References have been drawn to an earlier occasion, when the function was sought to be held within the School campus and the Court at that time was of the opinion that functions should be held elsewhere, but had given liberty to those who organized the exhibition, to apply to the District Collector for permission. So far as the festival is concerned, it comes under the purview of the Joint Commissioner, HR & CE (Admn) Department, Madurai.

6. The District Collector, Virudhunagar District, Virudhunagar and the Joint Commissioner, HR & CE (Admn) Department, Madurai, will have to examine whether permission can be granted to conduct the exhibition and also the festival within the School campus.

7. I am informed that the School is closed and that therefore, there would not be any danger



WEB COPY



W.P(MD)No.7406 of 2023

caused to any of the students or parents or the teachers or staffs. It is stated that since the campus, as on date, is vacant and free, the exhibition and the festival can be conducted. Necessary regulations will have to be put in place and necessary conditions will have to be imposed. These are aspects which can be considered only by the District Collector or by the Joint Commissioner.

*8. The onus is, therefore, shifted to the District Collector, Virudhunagar and the Joint Commissioner, Madurai to examine the application already made by the petitioner herein and obtain reports from the necessary officials including the District Educational Officer, the Fire Safety Department, the Police Officials and such other officials about the possibility of conducting the exhibition within the School campus and the festival within the School campus. Let an endeavour be made to apply mind to all possible aspects and an order be passed on or before **24.03.2023**. Before passing the order, the District Collector and the Joint Commissioner may also put on notice the petitioner and also the respondents 12 to 19. I would place a request on the petitioner and the*



W.P(MD)No.7406 of 2023

respondents 12 to 19 to participate in any discussion with the District Collector and the Joint Commissioner with aim to bring about a solution and not to frustrate the object of conducting the exhibition or the festival.

*9. The learned counsel for the petitioner and the learned Senior Counsel on behalf of the respondents 12 to 19 may give necessary instructions that all interested parties may make a forage to the Office of the District Collector, Virudhunagar and the Office of the Joint Commissioner, HR & CE (Admn), Madurai even tomorrow (22.02.2023) at any time between 3.00 p.m., and 5.00 p.m., and impress upon the two officials that orders are required to be passed, on or before **24.03.2023**. The copy of this order may also be taken.*

10. Registry before issuing the order copy may amend the cause title so far as the 5th respondent is concerned by describing the Joint Commissioner, HR & CE (Admn) Department, as at Madurai and delete the address at Sivagangai. The amendment to the cause title alone may be made



W.P(MD)No.7406 of 2023

and order copy be issued. No further order is required.

11. With the above observations, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed."

4. The entire order had been extracted above. It is seen that in that particular order it had been stated by at the bar that the School was closed and that therefore, there would not be any danger to any of the students or parents or teachers or staffs. It was also stated that the campus was vacant and free and exhibition and the festival can therefore be conducted. It is today represented by another counsel on behalf of the very same petitioner that even as on that date, the schedule for the 10th standard public examination has been released and now the order impugned is questioned on the ground that the examination would be on going. This statement is countered by the learned Additional Advocate General that subsequent to the earlier order in which directions had been given for a meeting to be conducted and a decision to be taken, a decision had been taken to conduct the festivals and necessary safety



W.P(MD)No.7406 of 2023

measures have been put in place and therefore, it had been directed that the festival can be proceeded with.

5. The fact that the examinations were scheduled is a fact which was known much earlier. They were not scheduled in a weeks' time or after the date of the earlier order. Even at the earlier hearing date, the date of the examination had been known to the petitioner herein. It is stated by the learned counsel for the petitioner that the said fact had been stated in the affidavit but, what had been argued had been reduced and if what had been reduced after hearing the argument was not to the satisfaction or was not to the satisfaction of the petitioner herein, then the proper approach would have been to file an appeal instead of coming back to this Court complaining about non-consideration of certain points. This cannot be appreciated.

6. The fact is that in the earlier order direction had been given that the petitioner and the private respondents who had been named aforesaid should participate in the meeting conducted by the first respondent herein. There is no ground raised that they did not



W.P(MD)No.7406 of 2023

participate. They were obligated to participate. The order impugned was passed after the participation. The order was passed after taking every view into consideration.

7. Re-agitating or re-litigating the same issue had been frowned upon by the Hon'ble Supreme Court.

8. In *K.K.Modi Vs. K.N.Modi and others* reported in *AIR 1998 SC 1297 = 1998 (3) SCC 573*, it had been held with respect to abuse of process of Court by referring to the Supreme Court Practice, 1995 published by Sweet & Maxwell, as follows:

"One of the examples cited as an abuse of the process of Court is re-litigation. It is an abuse of the process of the Court and contrary to justice and public policy for a party to re-litigate the same issue which has already been tried and decided earlier against him. The re-agitation may or may not be barred as res-judicata. But if the same issue is sought to be re-agitated, it also amounts to an abuse of the process of Court. A proceeding being filed for a collateral purpose, or a spurious claim



W.P(MD)No.7406 of 2023

being made in litigation may also in a given set of facts amount to an abuse of the process of the Court. Frivolous or vexatious proceedings may also amount to an abuse of the process of Court especially where the proceedings are absolutely groundless. The Court then has the power to stop such proceedings summarily and prevent the time of the public and the Court from being wasted. Undoubtedly, it is a matter of Court-s discretion whether such proceedings should be stopped or not; and this discretion has to be exercised with circumspection. It is a jurisdiction which should be sparingly exercised only in special cases. The Court should also be satisfied that there is no chance of the suit succeeding?"

9. In *T.Arivandandam v. T.V.Satyapal* reported in 1977 (4) SCC 467, the Hon^{ble} Supreme Court was concerned with re-litigation. In that particular case, the father of the appellant before the Supreme Court had challenged eviction proceedings, lost it, had appealed again and lost again and then filed a revision before the High Court. That was also dismissed. Thereafter, the son had filed a fresh suit for the very same



W.P(MD)No.7406 of 2023

property seeking protection from dispossession. The Hon^{ble} Supreme Court held as follows:

"The pathology of litigative addiction ruins the poor of this country and the Bar has a role to cure this deleterious tendency of parties to launch frivolous and vexatious cases.

5. We have not the slightest hesitation in condemning the petitioner for the gross abuse of the process of the court repeatedly and unrepentently resorted to. From the statement of the facts found in the Judgment of the High Court, it is perfectly plain that the suit now pending before the First Munsif's Court, Bangalore, is a flagrant misuse of the mercies of the law in receiving complaints. The learned Munsif must remember that if on a meaningful _ not formal _ reading of the complaint it is manifestly vexatious, and meritless, in the sense of not disclosing a clear right to sue, he should exercise his power under Order 7, Rule 11, C.P.C., taking care to see that the ground mentioned therein is fulfilled. And, if clever drafting has created the illusion of a cause of action, nip it in the bud at the first hearing by examining the party searchingly under Order 10, C.P.C. An activist Judge is the



WEB COPY



W.P(MD)No.7406 of 2023

answer to irresponsible law suits. The Trial Courts would insist imperatively on examining the party at the first hearing so that bogus litigation can be shot down at the earliest stage. The Penal Code is also resourceful enough to meet such men, (Cr.XI) and must be triggered against them. In this case, the learned Judge to his cost realised what George Bernard Shaw remarked on the assassination of Mahatma Gandhi:

"?It is dangerous to be too good."?

6.The Trial Court in this case will remind itself of Section 35-A, C.P.C., and take deterrent action if it is satisfied that the litigation was inspired by vexatious motives and altogether groundless. In any view, that suit has no survival value and should be disposed of forthwith after giving an immediate hearing to the parties concerned.

7. ... Another moral of this unrighteous chain litigation is the gullible grant of ex-parte orders tempts gamblers in litigation into easy Courts. A Judge who succumbs to ex-parte pressure in unmerited cases helps devalue the judicial process."?



W.P(MD)No.7406 of 2023

WEB COPY

10. In *Ranipet Municipality, rep by its Commissioner & Special Officer Vs. M.Shamsheerkhan* reported in 1998 (1) CTC 66 : 1997 (2) LW 761, a learned Judge of this Court held that "*when the intention of the party is only one, that is to re-agitate the very same matter already concluded, the subsequent suit has to be axed at the threshold.*"?

11. It is thus seen that the Courts have come down heavily on the same issue being agitated again and again. The petitioner had participated in the earlier discussion with the first respondent herein.

12. It is stated that there an order was passed by the Division Bench of this Court wherein, it had been specifically stated that a function should not be conducted within the school premises. The said order had been pointed out even when the earlier Writ Petition was heard and thereafter, in the presence of all the learned counsels the matter was directed to be examined by the first respondent herein and thereafter, the first respondent had passed an order which is now complained by the Writ Petitioner. That is an order in ***W.A.(MD) No.463 of 2016 dated***



W.P(MD)No.7406 of 2023

29.03.2016, SPK Exhibition Committee, SPK Boys' Higher Secondary School, Aruppukottai, represented by its Secretary P.Sankarasekaran Vs. The Secretary to Government, Tamil Development and Information Department, Chennai, wherein, the issue was about conducting the exhibition from 27.03.2016 to 17.04.2016 on the basis of a representation given by the School itself. The Secretary of the Exhibition Committee had filed the writ appeal.

13. In W.A(MD) No.463 of 2016, it had been stated that the counsel for the petitioner in W.P.(MD) No.5601 of 2016 had sought leave of that Court to withdraw the Writ Petition itself. It had been stated that the other aspects are not being adverted to, since the Writ Petition itself was being withdrawn and it was specifically stated as follows at paragraph No.4 :

"4.Mr.A.V.Arun, learned counsel for the appellant submitted that the SBK School would make a fresh application to the District Collector, Virudhunagar District, seeking permission to conduct an Exhibition in terms of G.O.Ms.No.74 Tamil Development and



W.P(MD)No.7406 of 2023

*Information (Exhibition) Department dated
29.05.2014."*

14. It is thus seen that at every point of time, the endeavour of the petitioner herein had been to approach the official authorities particularly, the District Collector, give a representation and then question the order.

15. Even in this particular issue, the first respondent and the District Collector have both passed orders. They have stipulated various conditions. It is no doubt important that the education of the students should not be affected but it is contended by the learned Additional Advocate General that the festival is to be conducted only in the evening hours after the examination hours and the examination would not be affected.

16. This Court cannot appreciate the same issue being brought about and another counsel arguing though it is stated that Mr.A.V.Arun is available through online but could not connect owing to



W.P(MD)No.7406 of 2023

connectivity issues. But the fact remains that the earlier order was passed in the presence of all the learned counsels. The onus shifted to the first respondent to pass necessary orders. Before the first respondent the petitioner could have agitated all the issues which have now been stated.

17. It is also complained that the stability certificate and the certificate from the Electricity Department had not been obtained. That is a issue which the Collector should examine and ensure that necessary safety measures are provided.

18. It is also contended by the learned counsel for the petitioner that the school premises should not be used for conducting of festivals or for exhibitions. But the petitioner himself has participated in the proceedings of the first respondent which proceedings was conducted only with the sole aim of regulating and deciding measures as to how the festival should conducted. The petitioner cannot now turn back and state that the festival itself should not be conducted. He could have given his/their suggestion for regulating the manner in which the exhibition of



W.P(MD)No.7406 of 2023

the festival is to be conducted. Participating in that particular meeting and coming back and complaining about the decision taken, can never be appreciated. The petitioner must realize there must be a finality to the litigation and merely because, the petitioner has the coffers of the Schools Trust at his hands does not mean that he should flitter money away filing vexatious and frivolous litigations.

19. After the order had been dictated and the matter had been stated as dismissed, Mr.A.V.Arun appeared back on the video screen. I do appreciate his presence and am thankful for his appearance and presence.

20. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

31.03.2023

Index :Yes/No
Internet :Yes/No
NCC : Yes / No
RM

20/23



W.P(MD)No.7406 of 2023

WEB COPY

To

- 1.The Director and Joint Secretary to Government,
Tamil Development and Information
(Exhibition) Department,
Fort St. George,
Chennai - 9.
- 2.The Commissioner of School Education,
College Road,
Chennai - 6.
- 3.The District Collector
Virudhunagar District,
Virudhunagar.
- 4.The Executive Engineer
PWD Department (Building Division),
Virudhunagar.
- 5.The Revenue Divisional Officer,
Aruppukottai Revenue Division,
Aruppukottai.
- 6.The Tahsildhar
Aruppukottai Taluk,
Aruppukottai.
- 7.The Chief Educational Officer
Virudhunagar District,
Virudhunagar.
- 8.The District Educational Officer,
Aruppukottai,
Virudhunagar District.



W.P(MD)No.7406 of 2023

WEB COPY

9.The Commissioner
Aruppukottai Municipality,
Aruppukottai.



WEB COPY



W.P(MD)No.7406 of 2023

C.V.KARTHIKEYAN, J.

rm

W.P(MD)No.7406 of 2023

31.03.2023