



W.P(MD)No.12119 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.05.2023

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THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

W.P.(MD).No.12119 of 2023

N.Pitchai Kannu

... Petitioner

Vs.

1.The Superintendent of Police,
Thoothukudi District.

2.The Deputy Inspector of Police,
Srivaikundam Division,
Thoothukudi District.

3.The Inspector of Police,
Seudunganallur Police Station,
Thoothukudi District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent dated 09.05.2023 and quash the same as illegal insofar as denying permission to conduct Music Concert and consequently direct the respondent to permit the petitioner to perform Music Concert Program on 23.05.2023 from 8.00 P.M. onwards during the temple festival of "Arulmighu Sri Gunavathiamman Temple", Muthalankurichi Village, Thoothukudi District.



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For Petitioner : Mr.D.Venkatesh
For Respondents : Mr.A.Albert James
Government Advocate (Criminal Side)

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the respondent dated 09.05.2023 and quash the same as illegal insofar as denying permission to conduct Music Concert and consequently direct the respondent to permit the petitioner to perform Music Concert Program on 23.05.2023 from 8.00 P.M. onwards during the temple festival of "Arulmighu Sri Gunavathiamman Temple", Muthalankurichi Village, Thoothukudi District.

2. By consent, the writ petition itself is taken up for final disposal.

3. The petitioner averred that he was the President of Muthalankurichi Village and the villagers celebrated festival in the above mentioned temple every year. The temple festival is going to be held between 22.05.2023 and 23.05.2023. As a part of the said festival celebration, the devotees are decided to perform Music concert program from 08.00 p.m



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onwards. Hence, the petitioner submitted a representation before the third respondent. The third respondent, by impugned order, dated 09.05.2023, rejected the request made by the petitioner. Challenging the same, the petitioner has filed the present Writ Petition.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondents.

5. The learned counsel appearing for the petitioner would submit that this Court repeatedly directs the police officials to grant permission to conduct cultural events and other related programmes with certain conditions. Therefore, he prayed to quash the impugned order passed by the third respondent, dated 09.05.2023 and prayed to grant permission to conduct Music Concert Program on 23.05.2023.

6. The learned Government Advocate (Criminal Side) appearing for the respondents submitted that the request made by the petitioner was rejected on the ground that there is a possibility for communal clash and law and order problem, therefore, this writ petition is liable to be dismissed.



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7. It is relevant to rely the order passed by the Division Bench of this

WEB COPY Court dated 10.07.2018 made in W.P.(MD)No.14491 of 2018, where, this

Court has held as follows:

“3. In M.Velmurugan V. The Superintendent of Police, on 24.01.2018. In passing orders in W.P.(MD) No.13440 of 2017, dated 20.07.2017, this Court had observed as follows:-

“3.We may at the very outset note that the celebrations pertain to Arulmighu Sankaranarayana Swamy Temple, Sankarankovil. It is a very ancient and renowned Temple. It is under the control of the Hindu Religious and Charitable Endowments Department. It is beyond dispute that celebrations in such Temples are customary in nature. It is not as if the writ petitioner is seeking to introduce some new practice. What is being traditionally held and conducted has to be necessarily followed. Therefore, we have no hesitation in allowing the writ petition as prayed for”

It is also relevant to note the notification dated 10.08.2017 in S.O.2555(E) by the Ministry of Environment, Forest and Climate Change, wherein, it has been stated as follows:

“3.In the principal rules, in rule 5, for sub-rule (3),
the following shall be substituted namely:-



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(3)Notwithstanding anything contained in sub-rule(2), the State Government may subject to such terms and conditions as are necessary to reduce noise pollution, permit use of loud speakers or public address systems and the like during night hours (between 10.00 p.m. to 12.00 midnight) on or during any cultural, religious or festive occasion of a limited duration not exceeding fifteen days in all during a calendar year and the concerned State Government or District Authority in respect of its jurisdiction as authorised by the concerned State Government shall generally specify in advance, the number and particulars of the days on which such exemption should be operative.”

Considering the above, this Court passed the following order in W.P.(MD) No. 14491 of 2018, which reads as follows:

“7.This Court, taking into consideration the earlier order of this Court and that on earlier occasion, the respondents had not too much to complain of, directs the respondents to grant permission to conduct the “Light Music” and “Patti Mandram” upto 12, mid night, between 17.07.2018 to 28.07.2018. The submission of learned counsel for petitioner that the sound system will be operated within permissible decibel levels is recorded.”



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8. In furtherance to above, the Division Bench of this Court recently

in W.P.(MD)Nos.17731 of 2018 and etc, batch, dated 10.08.2018, passed the following order:

“2. We are of the view that no public interest is involved in these Writ Petitions. We feel that the need to approach this Court would not have arisen, if only the respondent police considered the request of the petitioners within a reasonable time, i.e., at least two days from the date of receipt of representations. Thus, without expressing any opinion on the merits of the case, we direct the Inspector of Police/Sub-Inspector of Police concerned in all the Writ Petitions to consider and pass appropriate orders on the representations submitted by the petitioners within a period of two days. In the event of granting permission, the respondent police shall always impose any reasonable conditions, as has been imposed in the earlier occasions.

3. Considering the issue involved, which will be recurring in nature, we direct the Inspector General of Police, South Zone and the Central Zone to issue appropriate directions in this regard to all the police officers concerned coming within their jurisdiction, who would be otherwise dealing with such cases, to take decisions within a period of two days from the date of receipt of representations from the petitioners so that the Courts will not be troubled.



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4. It is brought to the notice this Court by Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.A.K.Baskarapandian, learned Special Government Pleader, that the Writ Petitions are being filed, after giving representations in the previous days.

5. We find considerable force in the said submission made by the learned Additional Advocate General. Our directions can never be implemented, if the petitioners rush to this Court on the very next day, after giving representations. Therefore, the persons, who seek permission to conduct cultural programme, are required to give representations at least two weeks before the proposed cultural programmes and thereafter, the directions, as given above, will have to be complied with by the police officer concerned.“

9. In view of the above decision rendered by this Court, the impugned order passed by the third respondent cannot be sustained and it is liable to be set aside. Accordingly, the impugned order passed by the third respondent is quashed. Further, considering the above facts and circumstances of the case, the following directions are issued to the third respondent:-

The petitioner is directed to file an affidavit of undertaking before the

respondent Police that no untoward incidents will occur. After filing the



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affidavit, the third respondent is directed to grant permission and to provide adequate police protection for the Music Concert programme to be conducted on 23.05.2023 at "Arulmighu Sri Gunavathiamman Temple", Muthalankurichi Village, Thoothukudi District subject to the following conditions:

a) the music concert programme in connection with a Festival in "Arulmighu Sri Gunavathiamman Temple", Muthalankurichi Village, Thoothukudi District scheduled to be held on 23.05.2023 should be completed before 11.00 midnight or within the time permitted by the respondent.

(b) double meaning songs should not be played so as to spoil the minds of students and the youth;

(c) no songs, touching upon any political party or religion, community or caste be played;

(d) no flex boards in support of any political party or religious leader be erected;

(e) the cultural programme should not affect either religious or communal harmony and shall be conducted without any discrimination based on caste;

(f) if there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;

(g) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;



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(h) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme; and

(i) if any untoward incident takes place, the organizers of the programme be made responsible for the same.

10. Considering the above, the third respondent is directed to strictly adhere to the Standard Operating Procedure adopted by the Government of Tamil Nadu.

11. It is open to respondent police to put any further restrictions or to impose any conditions purely in the interest of preserving public order and tranquillity. There can be a total ban for putting up any Flex Boards representing any community.

12. This writ petition is disposed of with the above observations and directions. There shall be no order as to costs.

18.05.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
Speaking/Non Speaking order

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T.V.THAMILSELVI, J.

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To

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- 2.The Deputy Inspector of Police,
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- 3.The Inspector of Police,
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