



W.P.(MD).No.17607 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.17607 of 2023
and
W.M.P.(MD).No.14699 of 2023**

M.Balamurugan

... Petitioner

Vs.

- 1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungampakkam High Road,
Nungampakkam,
Chennai – 34.
- 2.The Superintendent of Police,
Sivagangai, Sivagangai District.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Muthusamy Nagar,
Sivagangai.
- 4.The Revenue Divisional Officer,
Devakottai Taluk,
Sivagangai District.
- 5.The Tahsildar,
Devakottai Taluk,
Devakottai,
Sivagangai District.



W.P.(MD).No.17607 of 2023

6.The Executive Officer,
Arulmigu Muthumariamman Thirukoil
Srirangapuram, Arunagiripattinam,
Devakottai,
Sivagangai District.

7.The Inspector of Police,
Devakottai Nagar Police Station,
Devakottai, Sivagangai District.

8.N.Karuppiah

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1, 3 and 6 herein to take appropriate steps to conduct the Aadi Festival-2023 of Arulmigu Muthumariamman Temple, Srirangapuram, Arunagiripattinam, Devakottai, Sivagangai District from 25.07.2023 to 03.08.2023 as per the order of this Court dated 29.07.2022 in W.A.(MD).No.782 of 2022 with adequate police protection.

For Petitioner : Mr.Isaac Mohanlal,
Senior Advocate,
For M/s.Isaac Chambers.

For R-1 to R-5 : Mr.S.P.Maharajan,
Special Government Pleader.

For R-7 : Mr.K.Sanjay Gandhi,
Government Advocate (Criminal Side)

For R-8 : Mr.N.Dilip Kumar



W.P.(MD).No.17607 of 2023

ORDER

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This Writ Petition is filed for Mandamus, directing the respondents 1, 3 and 6 herein to take appropriate steps to conduct the Aadi Festival-2023 of Arulmigu Muthumariamman Temple, Srirangapuram, Arulnagiripattinam, Devakottai, Sivagangai District from 25.07.2023 to 03.08.2023 as per the order of this Court dated 29.07.2022 in W.A.(MD)No.782 of 2022 with adequate police protection.

2. The petitioner and the 8th respondent belong to rival groups. The petitioner group and the respondent group are having several litigations among them. One such litigation was filed for the previous year function i.e. 2022 in W.P.(MD).No.14425 of 2022 inter alia praying for Writ of Mandamus directing the 2nd respondent therein to take immediate steps to conduct Aadi Thiruvizha-2022 by following the procedures as per the order of the Joint Commissioner. The said writ petition was disposed of vide order 07.07.2022. However, the 8th respondent herein was aggrieved over the order and had filed writ appeal in W.A.(MD)No.782 of 2022. Especially the 8th respondent is aggrieved over the custom of selecting the person to take Sakthi Karagam



W.P.(MD).No.17607 of 2023

during the Aadi festival. After hearing the rival submissions the Hon'ble Division Bench vide order dated 29.07.2022 has directed the rival groups to conduct the Aadi festival jointly with certain conditions. Especially with regard to Sakthi Karagam, it was directed that there shall be a drawing of lot by putting the names of two members belonging to the Aghamudaiyar Community and three members from the Pillaimar Community. However, the said order was passed only for the festival which was conducted in the year 2022. Now, the parties have come before this Court to conduct the festival for this year i.e. 2023.

3. While considering the claim of the petitioner group and the respondents' group, the Hon'ble Division Bench has recorded the facts which is extracted hereunder:

11. Since the dispute between the appellant and the first respondent with regard to the administration and for taking Sakthi Karagam during Aadi Festival, is pending now in appeal and there is an order of status quo Commissioner, this Court is of the view that the practice that was being followed before the applications were filed, should be followed. All the parties have admitted before this Court that the mode by which the person to take Sakthi Karagam before the orders were passed by the Joint Commissioner, is not in dispute. The practice that was in vogue and being followed by the members of both the Communities is by



WEB COPY



W.P.(MD).No.17607 of 2023

writing the names of five persons from the two different communities in a plain sheet and drawing a lot to select one member to perform and take Sakthi Karagam. Hence, pursuant to the order of the status quo granted by the Commissioner, this practice should be continued till the final decision is taken by the Commissioner in the appeals that are pending before the Commissioner. In such circumstances, the order passed by the learned Single Bench cannot be sustained and the directions of the learned Single Bench to convene the Peace Committee Meeting to take a decision on his own, cannot be sustained. The decision pursuant to the said meeting cannot be sustained. Accordingly, the order passed by the learned Single Bench of this Court in W.P.(MD).No.14425 of 2022, is set aside. The consequential order passed by Tahsildar falls to the ground. It is to be noted that the Tahsildar in his order interpreted the order of status quo as one relating to framing of scheme ignoring the order in O.A.No.4 of 2018.”

4. It is seen from the records already the two groups have filed an appeal before the Commissioner of HR & CE Department and the same is pending. In fact, the Hon'ble Division Bench has directed the Commissioner to consider the appeal. The Hon'ble Division Bench further held that until then the parties shall follow the practice of selecting the person, who would carry the Sakthi Karagam. The same is extracted hereunder:

“12. From the peculiar facts of this case and the development, this Court is of the view that some arrangements in the interest of both is required as the festival for this year has already commenced. Therefore, the



W.P.(MD).No.17607 of 2023

WEB COPY

festival for this year can be celebrated/ conducted jointly by both the Communities as it was being done all along. With regard to Sakthi Karagam, there shall be a drawing of lot by putting the names of two members belonging to the appellant Community and three members from the first respondent Community. Thereafter, the person whose name is taken by drawing lot among the five members shall take Sakthi Karagam, and this arrangement is only for this year.”

5. However it was submitted by both the petitioner and the respondents a slight modification may be incorporated in the said direction. Instead of “*two members belonging to the appellant Community and three members from the first respondent Community*”, both the community may be directed to give five members. Therefore, this Court is confirming the order passed by the Hon’ble Division with a modification that the petitioner community shall give five members and the 8th respondent community shall give five members. This Court is also directing the parties to follow the same practice for this year i.e. 2023 as well as for the coming years, until the disposal of the appeal pending before the Commissioner.

6. The Learned Counsel appearing for the 8th respondent submitted that last year inspite of order, the festival was not conducted. Infact after the judgment rendered in the writ appeal, subsequently it was mentioned before the



W.P.(MD).No.17607 of 2023

Hon'ble Division Bench and the Hon'ble Division Bench also passed another order dated 01.08.2022 and the same is extracted hereunder:

“2. Hence, the Executive Officer of the Temple is now directed to get police protection and conduct the festival under his supervision. The Executive Officer of the Temple is directed to approach the District Superintendent of Police, Sivagangai for adequate police protection to conduct the festival and the District Superintendent of Police, Sivagangai is directed to give adequate police protection for the smooth conduct of the festival and to ensure that the order of this Court with regard to Sakthi Karagam is implemented in its letter and spirit. In case, the respondent group is not inclined to give the names of persons representing their group to perform Sakthi Karagam, the Executive Officer shall select the person among the persons nominated by the appellant group by drawing lot among the persons so nominated”.

7. In spite of the aforesaid two orders, the writ petitioner group had not submitted the list of 5 names from their group to the Executive Officer, thereby gave up their right. However, the respondents had given 5 names from their group to the Executive Officer. In spite of the same, the festival was not conducted for the reasons best known to the petitioner as well as the Executive Officer.



W.P.(MD).No.17607 of 2023

8. Hence, this Court directed the petitioner to submit an undertaking affidavit that the petitioner will not stall the festival which would be conducted this year. The petitioner has submitted the undertaking affidavit and the same is extracted hereunder:

“4. I undertake that no other members of my community will object for the conduct of the Aadi Festival in terms of the Orders of the Hon'ble Division Bench dated 27.09.2022 in W.A.(MD)No.782 of 2022.

5. I also undertake that in the event of member of Aghamudaiyar community getting elected in the drawl of lot by naming 5 names from each community, we will cooperate for peaceful conduct of the Aadi Festival of the year 2023. We also expect very same cooperation from members of Aghamudaiyar community”

Accepting the undertaking, this Court is directing the petitioner and his community to strictly follow this undertaking without any lapse and also not to stall the festival in any manner.

9. The Executive Officer is directed to conduct the drawal of lot on 23.07.2023. Both the parties shall give a list of five persons by 22.07.2023 before 6.00 p.m.



W.P.(MD).No.17607 of 2023

10. The Executive Officer shall seek police protection and the police authorities shall grant adequate protection for the smooth conduct of the festival. At the same time, it is the duty of the petitioner group as well as the 8th respondent group to cooperate with the officials in conducting the said festival in a peaceful manner without giving room for any complaint whatsoever from any quarter.

11. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Note: Issue Order Copy on 24.07.2023.



W.P.(MD).No.17607 of 2023

WEB COPY

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W.P.(MD).No.17607 of 2023

S.SRIMATHY, J.

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W.P.(MD).No.17607 of 2023

21.07.2023