



W.P(MD)No.10830 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10830 of 2014
and
M.P.(MD)Nos.1 and 2 of 2014

Full Gospel Pentecostal Church,
Having its National Headquarters,
at Door No.16/70C, Kadamalalikuntu,
Kothanallur Panchayat,
Mekkamanadapam Post,
Kanyakumari District,
Rep by its President and Chief Bishop Pastor – I,
Vinil Sathish.

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by the Principal Secretary to Government,
Home Department, Fort St.George, Chennai.
- 2.The District Collector,
Kanyakumari District,
Nagercoil.
- 3.The Revenue Divisional Officer,
Padmanapuram Division,
Thuckalay,
Kanyakumari District.



W.P(MD)No.10830 of 2014

4.The Tahsildar,
Kalkulam Taluk,
Thuckalay,
Kanyakumari District.

5.The Superintendent of Police,
Kanyakumari District,
Nagercoil.

6.The Deputy Superintendent of Police,
Thuckalay, Kanyakumari District.

7.The Inspector of Police,
Thiruvattar Police Station,
Thiruattar,
Kanyakumari District.

8.Kattathurai Village Panchayat,
Kattathurai, Kanyakumari District,
Rep by President Cum Executive Officer.

9.R.Verkeesh ... Respondents
*(R9 is impleaded vide order dated 05.12.2012
in M.P.(MD)No.3 of 2014 in W.P.(MD)No.
10830 of 2014 by RMDJ)*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the Inspector of police, Thiruvattar Police Station dated 17.06.2014 in reference No.P2/SP/4632/13 and quash the same and consequently forbear the respondents from interfering with our worshipping right of our religious faith namely full Gospel Pentecostal Church in Door No.20-7/1,



W.P(MD)No.10830 of 2014

Kattathurai Panchayat in Survey No.497/14, Veeyanoor village,
Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.Issca Mohanlal, Senior Counsel,
For Mr.P.Prabhu.

For Respondents : Mr.S.Shanmugavel,
Addl. Government Pleader for R1 to R4.
Mr.A.Albert James,
Government Advocate for R5 to R7.
Mr.M.Vivek Kumar for R9.
No appearance for R8.

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1 to 4, the learned Government Advocate for the respondents 5 to 7 and the learned counsel for the ninth respondent.

2.The petitioner is a society registered under the Tamil Nadu Societies Registration Act, 1975. It is denominational body professing Christianity. The petitioner challenges the impugned communication



W.P(MD)No.10830 of 2014

dated 17.06.2014 issued by the Inspector of Police, Thiruvattar Police Station, Kanyakumari District.

3.The learned senior counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He points out that the case on hand involves the premises comprised in S.No.497/14, Veeyanoor Village, Kalkulam Taluk and not R.S.No.497/4. This distinction according to the learned senior counsel for the petitioner is important because the District Collector had already rejected the petitioner's request for constructing a church in R.S.No.497/4 and that the appeal filed by the petitioner is pending before the Government. He called upon this Court to dispose of this writ petition in the light of the undertaking given in the reply affidavit.

4.The Revenue Divisional Officer, Padmanabhapuram as well as the Inspector of Police, Thiruvattar Police Station filed counter affidavits and the learned Additional Government Pleader took me through their contents. The respondents pressed for dismissal of the writ petition.



W.P(MD)No.10830 of 2014

5.I carefully considered the rival contentions and went through the materials on record. The petitioner had applied for permission to construct church in R.S.No.497/4 in Veeyanoor Village, Kalkulam Taluk. It has been rejected by the District Collector, Kanyakumari District on 21.07.2014 in the following terms:-

“The Revenue Divisional Officer, Padmanabhapuram in letter dated: 26.06.2014 has reported that in the said matter permission has been obtained from Kattathurai Village panchayat for the construction of Pastor's residential building only. Instead of constructing the residential building, prayer meetings are being conducted illegally by putting a temporary shed in R.S.No.497/4 of Veeyanoor A Village. Further the Revenue Divisional Officer, Padmanabhapuram has reported that the Hindus living in the surrounding area raised objections to conduct prayer in the said place. The Revenue Divisional Officer, Padmanabhapuram also reported that there are 5 churches situated within 1 km distance from the land in which permission requested to construct a church and law and order problem will be created and hence reported that permission need not be granted for the construction of pentecostal church in the above said place.

The Superintendent of Police, Nagercoil, in letter dated: 10.07.2014 reported that petition has been received from



WEB COPY



W.P(MD)No.10830 of 2014

Thiru.R.Vargheese, S/o.Rarnasamy, Punnathuvilai to stop prayer meetings conducted in R.S.No.497/4 of Veeyanoor A Village. Based on the complaint lodged a case has been filed u/s 107 Crpc in Cr.No.294/14 of Thiruvattar police station and investigation is going on. Since the petitioner is trying to misuse the permission obtained from the Kattathurai panchayat and one Pathrakali amman temple is situated within 200 meters distance from the place where permission requested for constructing a church and also to avoid Law and Order problem the Superintendent of Police, Nagercoil has not recommended to grant permission for the construction of pentecostal sabha and conducting prayer in the above said place.

The above judgments clearly states that even though anyone has a fundamental right to establish and maintain religious institutions, without any interference, as guaranteed under Articles 25 and 26 of the Constitutions of India, the fundamental right to freedom of religion is subject to public order, morality and health as such the right conferred should not come into conflict with any restraints, imposed in the interest of public order and on the ground of likelihood of eruption of Law and order situation. Herein the Superintendent of Police, Kanniyakumari District and Revenue Divisional Officer, Padmanabhapuram have not recommended for the construction of Full Gospel Pentecostal Church in R.S.No.497/4 of Veeyanoor A Village in Kalkulam Taluk on law and order point of view.



W.P(MD)No.10830 of 2014

In such circumstances, I accede with the reports of the Superintendent of Police and Revenue Divisional Officer, Padmanabhapuram and Permission requested for the construction of Full Gospel Pentecostal Church in R.S.No.497/4 of Veeyanoor A Village in Kalkulam Taluk is hereby rejected. Appeal lies into Principal Secretary / Municipal Administration and Water Supply (MA-1) Department, Secretariat, Chennai - 09.”

6.The petitioner had since filed appeal before the State Government and it is still pending. The case on hand however pertains to S.No.497/14, Veeyanoor Village bearing Door No.20-7/1. It is seen that the activities of the petitioner in this survey number has also attracted considerable opposition from the members of the locality. My attention is drawn to the order dated 20.04.2022 in W.P.(MD)No.10791 of 2012. The ninth respondent herein had filed the said writ petition against the writ petitioner herein. The ninth respondent herein had alleged that there is a Bhatharakaliamman Temple in Mekkammandapam, Kanayakumari District and that without getting any permission from the District Collector, the petitioner herein has put up a church in S.No.407/14B /



W.P(MD)No.10830 of 2014

Door No.20-7. The said writ petition was disposed of on 20.04.2022 by directing the authorities to hold an enquiry.

7.Rule 4(3) of the Tamil Nadu Panchayat Building Rules, 1997 reads as follows:-

“4. Application for approval of sites for buildings and huts:-

(3) No site shall be used for the construction of a building intended for public worship or religious purposes without the prior approval of the Collector of the district who may refuse such approval, if in his opinion, the use purpose of the site and building is likely to endanger public peace and order.”

8.The aforesaid rule categorically states that no site shall be used for construction of a building intended for public worship or religious purposes without prior approval of the District Collector. In this case what is under challenge is the communication issued by the jurisdictional police. All that the Inspector of Police, Thiruvattar Police Station had stated is that without getting prior approval, the petitioner herein cannot use the site for religious purpose. The impugned communication is in consonance with the aforesaid statutory rule. Interference is not



W.P(MD)No.10830 of 2014

warranted and the writ petition is dismissed. No costs. Consequently,
connected miscellaneous petitions are closed.

20.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

- 1.The Principal Secretary to Government,
Home Department, Fort St.George, Chennai.
- 2.The District Collector,
Kanyakumari District,
Nagercoil.
- 3.The Revenue Divisional Officer,
Padmanapuram Division,
Thuckalay,
Kanyakumari District.
- 4.The Tahsildar, alkulam Taluk,
Thuckalay, Kanyakumari District.
- 5.The Superintendent of Police,
Kanyakumari District, Nagercoil.
- 6.The Deputy Superintendent of Police,
Thuckalay, Kanyakumari District.
- 7.The Inspector of Police,
Thiruvattar Police Station,
Thiruattar, Kanayakumari District.

9/10



WEB COPY



W.P(MD)No.10830 of 2014

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.10830 of 2014

20.09.2023