



WP(MD)No.29001 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 16.03.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

W.P.(MD)No.29001 of 2022
and WMP(MD) No.22978/2022

M.Abdul Gani

.. Petitioner

Vs.

- 1.The Principal Secretary to Government
State of Tamilnadu
Secretariat,
Chennai 600 009.
- 2.The Additional District Magistrate/
Commissioner of Police, Madurai
O/o. The Commissioner of Police,
Madurai City.
- 3.The Deputy Commissioner of Police
South, Madurai City
O/o. The Deputy Commissioner of Police,
South, Madurai City.
- 4.The Assistant Commissioner of Police,
O/o.The Assistant Commissioner of Police,
Temple Range,
Madurai City.



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5.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
National Investigation Agency,
No.10 Millers Road, Purasaiwakkam,
Chennai 600 010.

.. Respondents

(R5 is impleaded vide order dated 27.02.2023
in WMP(MD) No.3494/2023)

Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings in C.No.61/Camp/COP-MC/2022 dated 01.10.2022 and quash the same as illegal, consequently direct the 2nd respondent to desal its premises at Door No.38 Second Floor, Tahsildar Pallivasal Street, Pallivasal Shopping Complex Campus, Madurai 625 001.

For Petitioner : Mr.S.M.A.Jinnah

For Respondents : Mr.AR.L.Sundaresan
Additional Solicitor General
of India for
Mr.R.Karthikeyan
Special Public Prosecutor for
NIA for R5

Mr.A.Thiruvadikumar
Additional Public Prosecutor
for R1 to R4



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ORDER

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[Order of the Court was made by **R.SURESH KUMAR, J.**]

The learned counsel for the petitioner even though has made submissions on merits of the case, challenging the impugned notification dated 01.10.2022, Mr.AR.L.Sundaresan, learned Additional Solicitor General of India, appearing on behalf of the 5th respondent, has raised a preliminary objection as to the maintainability of this writ petition by quoting the provision, namely, Section 8(8) of the Unlawful Activities (Prevention) Act, 1967 (hereinafter referred to as 'the Act'), which reads thus:

“8. Power to notify places used for the purpose of an unlawful association:-

(8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate— (a) for declaration that the place has not been used for the purpose of the unlawful association; or (b) for setting aside the order made under sub-section (3) or sub-section (4), and on receipt of the



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application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.

2. We have considered the said submissions made by both sides.

3. As has been rightly pointed out by the learned Additional Solicitor General for the 5th respondent, the sub-section 8 of Section 8 of the Act made it clear that any aggrieved person by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate.

4. When there is a statutory effective appeal remedy is provided as against the impugned notification, under Section 8(8) of the Act, in our considered opinion, the petitioner should first exhaust such remedy, without which he cannot straight away file this writ petition. Therefore, on this ground, we feel that the writ petition cannot be maintained. However, the



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learned counsel for the petitioner would submit that since 30 days time has been prescribed under Section 8(8) of the Act and since the writ petition has been filed and pending before this Court, a limitation point stand in the way, if the petitioner approaches the District Court.

5. Having considered the said submissions, we are inclined to pass the following order:

“that this writ petition is not maintainable, hence, it is dismissed, however with liberty to the petitioner to invoke Section 8(8) of the Act by filing appropriate application against the impugned notification within a period of one week from the date of receipt of a copy of this order. If such an application is filed, the same shall be entertained by the District Court concerned and decide the same on merits and in accordance with law”.

Consequently connected Miscellaneous Petition is closed.

(R.S.K.,J.) (K.K.R.K.,J.)
16.03.2023

Index : Yes/No
Internet : Yes



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Office to Note:

(i) Registry is directed to return the original impugned order to the counsel on record, after retaining a photocopy of the same with acknowledgement.

(ii) **Order Copy today itself (16.03.2023)**

RR

To

- 1.The Principal Secretary to Government
Secretariat, Chennai 600 009.
- 2.The Additional District Magistrate/
Commissioner of Police, Madurai
O/o. The Commissioner of Police, Madurai City.
- 3.The Deputy Commissioner of Police
South, Madurai City
O/o. The Deputy Commissioner of Police,
South, Madurai City.
- 4.The Assistant Commissioner of Police,
O/o.The Assistant Commissioner of Police,
Temple Range, Madurai City.
- 5.The Deputy Superintendent of Police,
O/o. the Deputy Superintendent of Police,
National Investigation Agency,
No.10 Millers Road, Purasaiwakkam,
Chennai 600 010.
- 6.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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and
K.K.RAMAKRISHNAN,J.

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