



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.12.2023

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CORAM :

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **R.SAKTHIVEL**

W.P(MD)No.29471 of 2023

Sujil Antony

... Petitioner

vs.

1. The District Collector,
Thanjavur, Thanjavur District.

2. The Superintendent of Police,
Thanjavur District, Thanjavur.

3. The Deputy Superintendent of Police,
Pattukottai, Thanjavur District.

4. The Inspector of Police,
Peravurani Police Station,
Thanjavur District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in NA.KA.No.65/G2-PVI PS/2023 passed by the 4th respondent police as illegal and violative of the natural justice and consequently direct the 3rd and 4th respondents to grant permission and protection for conducting the double bullock cart and horse race on 23.12.2023 at about 06.00 a.m as a part of Christmas festival of Annai Punitha Matha Alayam situated at Aathanoor Village, Peravurani Taluk, Thanjavur District, Race from Aranthangi Road, Aathanoor to Merpanaikadu.



WEB COPY

W.P(MD)No.29471 of 2023



For Petitioner : Mr.B.Santhanam Rajesh Kumar
For R1 : Mr.M.Senthil Ayyanar
Government Advocate
For R2 to R4 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned matter was listed in the Admission Board on 13.12.2023 and following proceedings were made:

W.P(MD)No.29471 of 2023

W.P.(MD)No.29471 of 2023

M.SUNDAR, J.
and
R.SAKTHIVEL., J.

ORDER

[Order of the Court was made by **M.SUNDAR, J.**]

Captioned 'Writ Petition' ('WP' for the sake of brevity) has been filed in this Court on 11.12.2023 as a 'Public Interest Litigation' ('PIL' for the sake of brevity).

2. Mr.B.Santhanam Rajesh Kumar, learned counsel on record for the PIL petitioner submitted that 'a communication dated 06.12.2023 bearing reference ந.க.எண்:65/G2-PV1 PS/2023' (hereinafter 'impugned communication' for the sake of brevity) passed by the 4th respondent refusing permission for bullock cart and horse-drawn cart races has been assailed in the captioned WP.

3. This Court drew the attention of learned counsel to Article 51-A (g) of the Constitution of India and more particularly, the last limb of the Article and this Court wanted to know the safeguard that have been put in place in this regard.

1/3



W.P(MD)No.29471 of 20.

W.P(MD)No.29471 of 2023

WEB COPY

4. In response to the above, learned counsel submitted that an affidavit of undertaking was filed last year but learned counsel is unable to mention about the same in the support affidavit and the affidavit of undertaking said to have been filed last year is not before this Court.

5. Faced with the above situation, learned counsel requested for a short accommodation. Request acceded to. List under the cause list caption 'ADJOURNED ADMISSION' on **18.12.2023**.


[M.S., J.] & [R.S.V., J.]
13.12.2023

vsm

2. Thereafter, there was one listing on 20.12.2023 and the matter was re-notified.

3. Before we proceed further, we noticed that some typographical errors have crept in qua paragraphs 3 and 4 of aforementioned Admission Board order dated 13.12.2023. On correction of these typographical errors, paragraphs 3 and 4 will read as follows:

'3. This Court drew the attention of learned counsel to Article 51-A(g) of the Constitution of India and more particularly, the last limb of



WEB COPY

W.P(MD)No.29471 of 20.



Clause (g) of the Article and this Court wanted to know the safeguard that **has** been put in place in this regard.

4. In response to the above, learned counsel submitted that an affidavit of undertaking was filed last year but learned counsel is unable to **point out any averments** about the same in the support affidavit and **in any event** the affidavit of undertaking said to have been filed last year is not before this Court'

4. The correction of typos have been shown in bold and different font for ease of reference. In the Admission Board order dated 13.12.2023, the above shall be read as errata / corrigendum and paragraphs 3 and 4 shall now be read as above.

5. Adverting to the aforementioned earlier proceedings dated 13.12.2023, Mr.B.Santhanam Rajesh Kumar, learned counsel on record for PIL petitioner submitted that an affidavit styled as 'Undertaking Affidavit' dated 15.12.2023 has been filed and the same is before us. To be noted, even today the affidavit of undertaking said to have been filed last year has not been placed before us. Be that as it may, a careful perusal of the affidavit styled 'Undertaking Affidavit' shows that it refers to **judgment dated 18.05.2023** made by Hon'ble Supreme Court in **W.P (Civil) No.23 of 2016**.



We find that this order has been reported in **2023 Live Law (SC) 447 [The Animal Welfare Board of India and Others vs. Union of India and Another]**. Learned counsel submitted that Tamil Nadu Amendment Act has been held to be not contrary to Articles 51-A(g) and 51-A(h) of the Constitution.

6. Issue Rule Nisi.

7. Mr.M.Senthil Ayyanar, learned Government Advocate accepted notice for 1st respondent and Mr.A.Thiruvadi Kumar, learned State Additional Public Prosecutor [instructed by Mr.P.Sivasankar, Head Constable 1431, Peravurani Police Station, Thanjavur District] accepted notice for respondents 2 to 4.

8. Learned State Additional Public Prosecutor adverting to the impugned order, submitted that the impugned order is predicated on as many as four grounds and they are:

- (a) Though there are guidelines of Hon'ble Supreme Court, the petitioner has not filed any material in support of implementation of the same;
- (b) There is heavy traffic in the road in which



bullock cart and horse-drawn cart races are to be held;

(c) The normal life of citizenry / local populace will be affected;

(d) There is opposition from general public.

Learned Prosecutor pointed out that all these four points have been set out / articulated in the impugned order.

9. In the light of AWBI case law [to be noted 'AWBI' is abbreviation for 'Animal Welfare Board of India'] which was pressed into service by learned counsel for PIL petitioner, this Court wanted to know from the learned counsel as to whether the event [bullock cart and horse-drawn cart races] i.e., மாட்டுவண்டி மற்றும் குதிரைவண்டி எல்லை பந்தயங்கள் is covered by 'Tamil Nadu Regulation of Jallikattu Act, 2009 (Act 27 of 2009)' [hereinafter 'Act 27 of 2009' for the sake of convenience]. Learned counsel answered in the negative. In other words, learned counsel for PIL petitioner submitted that the 'மாட்டுவண்டி மற்றும் குதிரைவண்டி எல்லை பந்தயங்கள்' [hereinafter 'said event' for the sake of convenience and clarity] for which permission was negatived vide impugned order is not covered by Act 27 of 2009. This submission made at the Bar is recorded.



W.P(MD)No.29471 of 20.

10. Thereafter, learned counsel placed before us an '**order dated 02.02.2023 made in W.P(MD)No.2095 of 2023 [Dhanaventhana vs. The Superintendent of Police, Thanjavur District and another]**' [hereinafter '**Dhanaventhana's case**' for the sake of convenience and clarity] made by another Coordinate Division Bench and another '**order dated 12.04.2023 made in W.P(MD)No.8400 of 2023 [Praveen vs. The District Collector, Thanjavur District and two others]**' [hereinafter '**Praveen's case**' for the sake of convenience and clarity]. In **Praveen's case**, another Hon'ble Coordinate Division Bench has followed **Dhanaventhana's case**.

11. In the aforesaid backdrop, with the consent of both sides i.e., with the consent of learned counsel for PIL petitioner, learned Government Advocate for 1st respondent and learned State Additional Public Prosecutor for respondents 2 to 4, main writ petition was taken up and heard out. In this regard, we make it clear that in adopting this course, we are resorting to last limb of sub-rule (3) of Rule 19 of the Madras High Court Writ Rules, 2021, which provides for shorter Rule Nisi notices.

12. We carefully considered the rival submissions, case file before us and the aforementioned orders.



13. We are of the considered view that the impugned order made by the 4th respondent does not deserve to be interfered with. We are therefore of the considered opinion that the captioned PIL deserves to be dismissed and the reasons are as follows:

(i) As already alluded to supra, learned counsel for PIL petitioner submitted that said event is not covered by Act 27 of 2009 and this submission has been recorded;

(ii) As regards AWBI's order made by a Constitution Bench of Hon'ble Supreme Court, the same pertains to an amendment to 'Prevention of Cruelty to Animals Act, 1960' [hereinafter 'said Act' for the sake of brevity] which was brought in vide Prevention of Cruelty to Animals Act (Tamil Nadu Amendment) Act, 2017 [Tamil Nadu Act 1 of 2017]. In and by Act 1 of 2017 *inter alia* Jallikattu was explained as an event involving bulls and that it includes 'manjuviratu', 'vadamadu' and 'erudhuvidumvizha' [to be noted, there are some other amendments to Prevention of Cruelty to Animals Act, 1960, in the context of Jallikattu].



WEB COPY

W.P(MD)No.29471 of 20.



While testing the vires of the Amendment Act i.e., Act 1 of 2017, Hon'ble Supreme Court, in AWBI case held that the amendment is not violative of Articles 51-A(g) and 51-A(h) of the Constitution. It is not necessary to delve more into this aspect of the matter. It will suffice to say that AWBI order does not come to the aid of PIL petitioner as learned counsel has categorically submitted that said event is neither Jallikattu nor covered by Act 27 of 2009.

(iii) As regards aforementioned two orders i.e., orders in **Dhanaventhana's** case and **Praveen's** case placed before us, we find that in **Dhanaventhana's** case, an order made by the 4th respondent herein [2nd respondent therein] vide C.No.06/G2-PVI PS/2023 for bullock cart and horse race on 05.02.2023 was interfered with but the order which was interfered with is not before us. **Dhanaventhana's** case order also does not mention anything about the order that was interfered with or grounds on which the impugned



order that was interfered with was made. Learned counsel for PIL petitioner is also unable to show us the proceedings that were interfered with. There is nothing before us to demonstrate that the proceedings that were interfered with in **Dhanaventhana's** case are proceedings which are akin to or similar to the impugned order much less akin to the four grounds on which the impugned order has been made by the 4th respondent. The same dispositive reasoning applies to **Praveen's** case also as **Praveen's** case is a Mandamus and a Mandamus prayer has been answered in the affirmative as regards bullock cart and horse race in Aranthangi road, Peravurani Taluk, Thanjavur District but the **Praveen's** case order also does not come to the aid of PIL petitioner as none of the points that have been brought up vide impugned order, have been brought up in those cases. In other words, there was no issue of traffic / traffic congestion in the road where races were to be held, there was no issue of normal life of public being



W.P(MD)No.29471 of 20.

affected and opposition from public was not an issue raised either in **Dhanaventhana's** case or in **Praveen's** case. Therefore, aforementioned two cases also do not come to the aid of the PIL petitioner.

14. Reverting to the impugned order, as already alluded to supra, it is predicated on four grounds. The first ground pertains to guidelines put in place by Hon'ble Supreme Court. The impugned order has not articulated as to what the guidelines are but it merely says that the petitioner has not put in any material in support of such guidelines. Therefore, we deem it appropriate to ignore this ground. We move on to the second ground of heavy traffic i.e., the ground that the road in which the said event is to be held is a road with heavy traffic [மிகுந்த போக்குவரத்து]. There is nothing on the side of the petitioner to demonstrate that this is incorrect. All that the PIL petitioner says is that permission was granted in the previous year. The permission granted in the previous year has not been placed before us and there is nothing to demonstrate that permission was granted in the same road last year. Be that as it may, on a demurrer, there is nothing to demonstrate the density of traffic in the previous year has not changed in the present year. Therefore, we have no difficulty in sustaining the second ground on which the impugned order is predicated.



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15. We now test the third ground namely, normal life of the public (citizenry / populace) being affected. The 4th respondent is entrusted with law and order duties and it is the responsibility of the 4th respondent to ensure that normal life of the local populace / citizenry in his territorial jurisdiction is not affected. The opinion of the 4th respondent that normal life [இயல்பு வாழ்க்கை] of the local populace / citizenry will be affected if the said event is permitted to be held is not subjected to any kind of disputation. In other words, there is nothing on the side of the PIL petitioner to show that this ground is bad or incorrect and that the normal life of the local populace / citizenry is not likely to be affected. Therefore, we sustain the ground articulated by the 4th respondent that normal life [இயல்பு வாழ்க்கை] of the local populace / citizenry will be affected as he is responsible for law and order in the area over which he is vested with territorial jurisdiction as Station House Officer of Peravurani Police Station in Thanjavur District. This takes us to the fourth ground of opposition from public. There is no material on either side on this aspect of the matter and therefore as we are sustaining the order on two of the four grounds, we leave this question open. This may also turn on facts and therefore this is another reason why we leave this fourth ground open.



16. Therefore, of the four grounds on which the impugned order has been made, the impugned order is being sustained by us on two grounds namely, heavy traffic in the road in which the said event is to be held and normal life of the local populace / citizenry being affected.

17. We also had the benefit of perusing leaflets that have been circulated (as placed before us by PIL petitioner) and a scanned reproduction of the same is as follows:

தஞ்சாவூர் மாமட்டம், பெராவூரணி கட்டம் ஆதனூர் கிராமத்தார்கள் மற்றும் ரேக்ளா நண்பர்களால் நடத்தப்படும்

மாபெரும் மாட்டுவண்டி எலகை பந்தயம்

இ.ஆதனூர் தோடி திடல் (ஆதனூர் ம அருத்தாங்கி சாலை) நாள்: 23.12.2023 சனிக்கிழமை கிழி காலை 06.00மணி

பெரியமாடு	தஞ்சாவூர்	பெராவூரணி	ஆதனூர்	கிராமத்தார்கள்	ரேக்ளா நண்பர்கள்
புகைவூ 8 மணி இலம் எலகை 8.00	ரூ. 15,000 புகைவூ A.எட்டின்.	ரூ. 12,000 புகைவூ சிங்கை வால் நண்பர்கள்	ரூ. 10,000 புகைவூ D.ஞானராஜ்	ரூ. 8,000 புகைவூ S.சந்திரமுகு, J.பிரிண்டர்	ரூ. 1,000 M.ஜான் விபரம் A. சந்திர
4 பஸ் கன்று புகைவூ 4 மணி இலம் எலகை 7.00	ரூ. 8,000 புகைவூ J.அருண் சுபாஷ்	ரூ. 6,000 புகைவூ நாம் தமிழர் கட்சி உண்பர்கள்	ரூ. 5,000 புகைவூ A.பாருக்	ரூ. 4,000 புகைவூ அக்காபின்	ரூ. 1,000 M.ஜான் விபரம் A. சந்திர
கரிச்சான்மாடு புகைவூ 5 மணி இலம் எலகை 8.00	ரூ. 10,000 புகைவூ செல்வி அனாத் (மெட். உலக இலகைவூ)	ரூ. 8,000 புகைவூ அத்தேவனி சாமி, நித்தியானந்தம்	ரூ. 6,000 புகைவூ S.மரிபாளையனாதன் (கடமுக)	ரூ. 5,000 புகைவூ முகிகொம்பு திருச்சி, நண்பர்கள்	ரூ. 1,000 M.ஜான் விபரம் A. சந்திர

தரமறை

இப்படிக்கு, ஆதனூர் கிராமத்தார்கள் மற்றும் ரேக்ளா நண்பர்கள்



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18. The above shows that the organisers themselves have described said event as 'மாபெரும்' மாட்டுவண்டி எக்கை பந்தயம். Therefore, it is a mega event even according to the PIL petitioner. This adds strength to at least two grounds on which the impugned order has been made. In addition to this, aforementioned leaflets circulated also show that cash prizes have been announced and therefore it is going to be a competition of sorts. Though it is submitted that there would be no betting, it is clear that it will be an intense event. As it is an intense mega event it will touch upon law and order which is within the domain of the 4th respondent.

19. We make it clear that this order does not in any manner turn on Clause (g) of Article 51-A of the Constitution though this Court had sought for safeguards in this regard in the Admission Board order. To put it differently, the impugned order of the 4th respondent has been tested *de hors* Article 51-A(g) of the Constitution.

20. We also find from the aforementioned leaflets that the race with cash prizes up for grabs is a mega event ['மாபெரும்' மாட்டுவண்டி எக்கை பந்தயம்] is going to be held two way for 8 Miles. '8 Miles' translates into '12.875 Kilometres i.e., 12.86 Kilometres'. This Court having set out the narrative discussion and dispositive reasoning for the conclusion which has



W.P(MD)No.29471 of 20.

already been set out in the opening part of this order makes it clear that all the four respondents will now stand bound by this order though we are sustaining the order of the 4th respondent. All respondents shall ensure that impugned order of 4th respondent (which has been sustained by this Court vide instant order) is implemented in letter and spirit i.e., to ensure that said event is not held so that no inconvenience is caused to general public.

21. In the light of the narrative discussion and dispositive reasoning, captioned WP which has been filed as a PIL is dismissed and we refrain from imposing costs.

(M.S., J.) (R.S.V., J.)
21.12.2023

Index : Yes / No
Neutral Citation : Yes / No
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P.S. (i) Upload forthwith.

(ii) All concerned to act on this order being uploaded in official website of this Court without insisting on certified copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.

To

1. The District Collector,
Thanjavur,
Thanjavur District.



W.P(MD)No.29471 of 20.

2. The Superintendent of Police,
Thanjavur District,
Thanjavur.

3. The Deputy Superintendent of Police,
Pattukottai,
Thanjavur District.

4. The Inspector of Police,
Peravurani Police Station,
Thanjavur District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P(MD)No.29471 of 20.

M.SUNDAR, J.
and
R.SAKTHIVEL, J.

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ORDER MADE IN
W.P(MD)No.29471 of 2023
DATED : 21.12.2023