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W.P.Nos.23977 and 23962 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2024

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P. Nos.23977 and 23962 of 2024

and

WMP.Nos.26242, 26230 and 26232 of 2024

WP.No.23977 of 2024

A.Krishna Prasath

... Petitioner

Vs.

1. The Director General of Police,
Mylapore, Chennai.

2. The Additional Director General of Police,
Chennai.

3. The Commissioner of Police,
Coimbatore City,
Coimbatore.

4. The Deputy Commissioner of Police,
Kovai North.

... Respondents

WP.No.23962 of 2024

Thamarai T.Dhansu

... Petitioner

Vs.



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The Inspector of Police,
T-19, Kelambakkam Police Station,
Tambaram, Chennai.

... Respondent

PRAYER in WP.No.23977 of 2024: Writ Petition is filed under Article 226 of Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to quash the order made in ந.க.எண் 154/P/DCP North CBE City/2024 dated 10.08.2024 passed by the fourth respondent and to grant permission to conduct national flag bike rally, Coimbatore and to provide adequate police protection on 15.08.2024.

PRAYER in WP.No.23962 of 2024: Writ Petition is filed under Article 226 of Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to C.No.3/Inspr.T19PS/Camp/2024 dated 12.08.2024 and quash the same consequently direct the respondent to give permission and police protection to conduct motorcycle rallies with holding National Flag on 14.08.2024 from Kovalam East Coast Road, (ECR) to Mahabalipuram.

WP.No.23977 of 2024

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondents : Mr. J.Ravindran,
Additional Advocate General
assisted by Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)



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WP.No.23962 of 2024

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For Petitioner : Ms.J.Shakila

For Respondents : Mr. J.Ravindran,
Additional Advocate General
assisted by Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

COMMON ORDER

Thiruppur Kumaran, (Kodi Kaatha Kumaran) lost his life for carrying flag of the nation, that about 96 years ago. This was happened during the British Period. Unfortunately, after 77 years of independence, when the writ petitioners sought permission to take out a rally carrying the National Flag, it is denied by the police.

2. The reason for denial appears to be i) non disclosure of the route of the rally. ii) The details of vehicles which are likely to be participated in the rally not mentioned. iii) The rally likely to pass through narrow lanes, where over bridge work and road maintenance work been carried out. Therefore, the rally may cause inconvenience to the public and traffic flow.

3. On seeing the reasons, this Court was shocked. A question are



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we still under British Raj. Hence, sought the Government's response why State wants to prohibit the Motor Cycle rally to celebrate independence day.

4. The learned Additional Advocate General appeared today (14.08.2024) and put forth the perspective of the State why the permission sought by the petitioner was declined. The learned Additional Advocate General made it clear that the permission was refused not because for any political reasons. When a similar requests was made by the Congress Party, the State has taken a similar stand and rejected permission for the rally. Giving the statistics of the police personnel available in the district, he submits that wherein most of them are likely to be deployed in the security work due to sensitivity of Independence Day celebration he also put a question to the organizers whether it is necessary to celebrate independence in the way in which they want (i.e.,) by a two-wheeler rally carrying National Flag.

5. The learned Additional Advocate General emphasized that State is more concerned about the dignity of the National Flag. The proposal to take out bike rally will lead to violation of the Flag Code of India,



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2002 as amended in the year 2023.

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6. According to the learned Additional Advocate General, the flag should be correctly displayed, the Flag should not be allowed to touch the ground, it should not be displayed or fastened in any manner as may damage it, it shall not be used for any advertisement purpose, that apart it cannot be displayed on motor car. Referring Section IX of the Flag Code of India, the learned Additional Advocate General submits that the privilege of flying the national flag on motor cars is limited to persons mentioned in the said Section and therefore the motor bike/bicycle rally carrying national flag will be in violation of Section IX of the Flag Code of India.

7. Mr.R.C.Paul Kanagaraj, the learned counsel for the petitioner submits that there cannot be a better way of celebrating the Independence Day by displaying the flag of the nation which has been won after sacrifice of our forefathers. To create awareness about freedom struggle to our young generation, motor cycle rally carrying the national flag with pride will be the appropriate manner of celebrating the event.

8. Regarding the Flag Code, the learned counsel for the petitioner



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submits that carrying Flag will no way causing disrespect or insult to the National Flag infact the rally is meant to honour the nation and national flag. The national flag will not be fixed in the motor bike, but, it will be carried by the pillion rider. Therefore, the apprehension of the learned Additional Advocate General that the motor bike rally will be in violation of Section IX of Flag Code is totally unfound.

9. The learned Additional Advocate General further submits that if the petitioner or any other organizers want to conduct procession by walk, the same will be considered.

10. In response to this, the learned counsel appearing for the petitioners submits that in some part of the State even cycle rally permission was denied and in Chengalpet District, and a walk from Kovalam Junction to Mahabalipuram carrying Flag by 100 persons was denied by the Inspector of Police E-1, Mamallapuram Police Station, Chengalpet District. The said rejection copy was circulated to the Court for perusal.

11. The learned counsel appearing for the petitioners submits that



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the reasons for permission denial by the Police and the reason now stated by the learned Additional Advocate General does not synchronize except the ulterior intention to prohibit any display of affinity to nation by carrying National Flag and proceed in a procession on the independence day. The denial tantamounts to violations of fundamental rights.

12. The learned Additional Advocate General in turn showed the photocopy of members in bike, making preparation for rally. Pointing out that they were not wearing helmets, said it amounts to violation of Motor Vehicles Act and he apprehends that the participants of the bike rally will commit similar violations.

13. Taking note of the facts and circumstances of the case, this Court finds no valid apprehension or reason for denying permission for bike rally carrying national flag on the independence day as a mark of respect to the souls which had fought for the nation's independence. Whatever the reasons stated by the learned Additional Advocate General as a response to the writ petition does not find place in the rejection order. It appears colourable to hide true intention. However, the learned Additional Advocate General has put the perception of the Government on the largest canvass and has expressed the apprehension regarding



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likelihood of insult to the national flag and the likelihood of violations of Motor Vehicles Act which needs to be addressed.

14. Taking note of the apprehension expressed, this Court directs the Director General of Police, Tamilnadu not to prohibit any rally whatsoever in the State on the Independence Day (15.08.2024) whether by motor car, motor bike, bicycle or by walk in which the participants carry national flag with due respect and dignity and pass through the public lane/road/Highways without causing any disturbance to the flow of traffic. The participants and organizers whomsoever shall maintain order and shall not do any act which will demean the national flag or the nation.

15. The organizers who want to conduct rally carrying national flag on the independence day are permitted to do it in accordance with law with the above direction. The State police shall not prevent them from proceeding as a rally. The organizers shall by 10.00p.m., today (14.08.2024) inform the route and number of persons (approximately) likely to participate in the rally and the time of commencement to enable the police to provide necessary arrangements. It is made clear that this



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permission is for carrying National Flag alone in the procession/rally on Independence day i.e., on 15.08.2024.

16. The above order passed in W.P.No.23977 of 2024 will apply to W.P.No.23962 of 2024 as well.

17. With the above directions, these *Writ Petitions are disposed of*.
No costs. Consequently, the connected miscellaneous petitions are closed.

14.08.2024

Vv

Note: Issue Order Copy today(14.08.2024) itself.

To

1. The Director General of Police,
Mylapore, Chennai.
2. The Additional Director General of Police,
Chennai.
3. The Commissioner of Police,
Coimbatore City,
Coimbatore.
4. The Deputy Commissioner of Police,
Kovai North.
5. The Inspector of Police,
T-19, Kelambakkam Police Station,
Tambaram, Chennai.



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6. The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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