



W.P(MD)No.635 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.635 of 2023

and

W.M.P(MD)Nos.636 of 2023 & 23399 of 2024

R.Thavam

... Petitioner

Vs

- 1.The District Collector,
The Collectorate Office,
Tenkasi District.
- 2.The Revenue Divisional Officer,
The Revenue Divisional Office,
Tenkasi District.
- 3.The Block Development Officer,
The Block Development Office,
Keelapaavoor,
Tenkasi District.
- 4.The Tahsildar,
Taluk Office,
Tenkasi District.
- 5.The Assistant Director of Panchayat Union,
The Office of the Assistant Director of Panchayat Union,
Tenkasi District.
- 6.The Superintendent of Police,
Tenkasi District.
- 7.The Deputy Superintendent of Police,
The Office of the Deputy Superintendent of Police,
Tenkasi District.



W.P(MD)No.635 of 2023

8.The Inspector of Police,
Paavoor Chathiram Police Station,
Tenkasi District.

9.Mariyappan
10.Kumar

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned notice dated 30.12.2022 in Na.Ka.No.A2/375/2022 of the third respondent and quash the same as unconstitutional, unfair, unjust and against the principles of natural justice.

For Petitioner	: Mr.J.Priscilla Pandian
For RR 1, 2, 4 & 5	: Mr.D.Gandhi Raj Special Government Pleader
For RR 6 to 8	: Mrs.M.Aasha Government Advocate (Crl.Side)
For R – 9	: Mr.S.Chellapandian

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the third respondent, dated 30.12.2022 thereby directing the petitioner to remove the digital board containing the caste name in the arch of 'Arulmighu Muppudathi Amman Thirukovil'.



W.P(MD)No.635 of 2023

WEB COPY

2.The Temple of Shri Muppudathi Amman is situated in Melapavoor Village, Tirunelveli District. It belongs to a particular community called Devendrakula Vellalar. The people surrounding the Villages of Sadaiyapuram, Melapavoor, Keelacolony and Ambedkar Nagar are used to come and conduct poojas daily and also celebrate other festivals. It is situated in the land comprised in S.F.No.108/1 out of total extent of 0.13.5 ares. It is a private Temple. There is a separate arch in front of the Temple displaying their community with idols. However, it is objected by the other community people. Therefore, there was a peace committee meeting conducted by the fourth respondent on 13.01.2016. In the peace committee meeting, the Panchayathars of all the community people agreed to put up a cement concrete arch in front of their Temples without displaying their community name. In view of the notification dated 13.04.2021 issued by the Government of India, one G.Mariselvan, filed a Writ Petition before this Court in W.P(MD)No.10164 of 2021 seeking permission to unveil the name board of their Temple in the name of their caste. It was dismissed as withdrawn by order dated 03.08.2021 with liberty to submit a fresh representation before the first respondent. Subsequently, on 03.01.2022, a representation was made before the respondents 1 and 6 seeking permission to



W.P(MD)No.635 of 2023

put up the digital board in the arch containing their caste name. On receipt of the same, the second respondent issued summons to conduct an enquiry relating to the display of digital board. The peace committee meeting was convened on 10.05.2022 and no final decision has been taken in the peace committee meeting. Therefore, the petitioner submitted another representation before the first respondent seeking permission to form two feet concrete Thevar statue. Thereafter, another peace committee meeting was conducted by the second respondent. In the said peace committee meeting also, no final decision was taken due to objections raised by other party. Without any resolution, the petitioner installed a digital board mentioning their caste name in the arch of the Temple. Therefore, the third resolution passed the order dated 30.12.2022, thereby directing to remove the digital board containing the caste name on or before 10.01.2023, failing which it will be removed by the authority.

3.The learned counsel appearing for the petitioner would submit that the Shri Muppudathi Amman Temple is meant for particular community people, who are residing in and around the villages of Sadaiyapuram, Melapavoor, Keelacolony and Ambethkar



W.P(MD)No.635 of 2023

Nagar. The Temple is situated in the land comprised in S.F.No.10/1 to an extent of 8 cents out of 0.13.45 ares. It is usual practice in the said location to display their community with idol in their respective Temples by way of digital board. There is a cement arch structure at the entrance of the Shree Muppidathi Amman Temple. It was constructed 20 years before and there is a digital board mentioning the community name. There is a dispute in respect of laying the digital board in the name of the community. Therefore, the peace committee meeting was conducted. However, no final order has been passed. All of a sudden, the impugned notice was issued to the petitioner to remove the digital board which was already fixed by the petitioner without conducting any enquiry.

4.On perusal of the counter-affidavit filed by the 9th respondent and on the submissions made by Mr.S.Chellapandian, learned counsel appearing for the 9th respondent would reveal that even at the time of construction of arch, they objected in order to maintain communal harmony. Even then, it was constructed that too 600 meters away from the Temple. The arch was constructed without obtaining proper permission from the authority concerned. Because of construction of arch and also laid the display board of



W.P(MD)No.635 of 2023

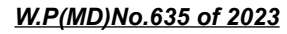
the community, created communal harmony in the entire village where all the community people are living as brothers and sisters. In pursuant to the construction of arch and erection of digital sign board mentioning the community name also created law and order problem and due to which more than 10 F.I.Rs have been registered as against the petitioner as well as counter parties.

5.On perusal of the counter-affidavit filed by the 8th respondent and on the submissions made by the learned Government Advocate (Criminal Side) appearing for the respondents 6 to 8 would reveal that during the peace committee meeting, the petitioner was directed to remove the digital sign board and subsequently, the petitioner was issued notice dated 30.12.2022 to remove the digital board containing the caste name in order to maintain law and order issue. A criminal case was also registered in Crime No.148 of 2022 under Section 143 of I.P.C and Sections 3 and 4 (1b) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 as against the petitioner and others. In pursuant to the installation of the digital board mentioning the caste name, the villagers have blocked the passage and as such another F.I.R has been registered in Crime No.157 of 2022 for the offence



W.P(MD)No.635 of 2023

under Section 283 of I.P.C. Apart from that, there is frequent law and order issue in the locality. Due to the installation of the digital board, there is a likelihood of a communal clash between two community people in the locality. The arch put up by the petitioner itself falls within Natham Road. Thereafter, on 16.03.2023, the petitioner's community people conducted Kumbabhishekam on 16.03.2023 and installed a flex board near the Temple arch without seeking any permission from the 8th respondent. Therefore, the case has been registered in Crime No.94 of 2023 for the offence punishable under Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. Thereafter, the said flex board was removed by the police personnel. In fact, the petitioner's community staged road roko against the removal of the flex board and as such another F.I.R has been registered in Crime No.95 of 2023 for the offences punishable under Sections 143, 283, 145 and 353 of I.P.C. Thereafter, another dispute between the petitioner community and other community and as such, another F.I.R came to be registered in Crime No.147 of 2023 for the offences under Sections 153(A), 504 of I.P.C and 3(1)(t) of SC/ST (Prevention of Atrocities) Act, 1989. Therefore, the 8th respondent deployed police bandobust and it was continued for months together in order to keep peace in the said location. In pursuant to the visitation of



(i) Crime No.149 of 2023 for the offence under Section 153(A) of I.P.C and Section 7(1)(a)(a) of Cr.P.C. dated on 07.05.2023.

(iii) Crime No.159 of 2023 for the offences under Sections 143, 353 and 341 of I.P.C on 13.05.2023.

(iv) Crime No.160 of 2023 for the offences under Sections 294(b) and 353 of I.P.C on 13.05.2023.

(v) *Crime No.181 of 2023 for the offences under Sections 153(A) and 506(i) of I.P.C.*

(vi) *Crime No.190 of 2023 for the offences under Sections 147, 341, 294(b), 427 and 506(ii) of I.P.C.*

(vii) *Crime No.188 of 203 for the offences under Sections 147, 341, 294(b), 323 and 506(ii) of I.P.C.'*



W.P(MD)No.635 of 2023

WEB COPY

6.While being so, on 07.11.2024, a person from another community, lodged a complaint before the sixth respondent to take action as against the petitioner's community people, who recently changed the small size digital board into a big size by displaying their community flag and style, when this Writ Petition is pending and in view of the interim order passed by this Court.

7.Further, on perusal of the records also would reveal that all community people are going through the arch as entry to access Thuvarangkadu Village. The Temple arch pathway caters as a pathway for many agriculturists of all communities, who are holding agricultural land. That apart, the movement of vehicles is also obstructed and the arch causes hindrance to public maintenance. The arch is erected on the pathway of the common general public that too in the Government land. The petitioner's community people encroached upon the Government road and constructed the Muppidthiamman Temple arch. That apart, the petitioner's community people placed the digital display board mentioning their community name. In the said location, no other community people mentioned their caste name, symbol, flag, flag colour and any sign



W.P(MD)No.635 of 2023

by way of digital board or flex board. Therefore, the third respondent rightly issued an order to remove the digital board reflecting the petitioner's community name and their flag colours in the Muppidathiamman Temple arch in the interest of public peace.

8.The Hon'ble Division Bench of this Court in the case of ***The Madurai Manager Old Motor Spare Parts Dealers' Association Vs. Madurai City Municipal Corporation*** reported in ***2005 (2) CTC 759*** held in the issue related to removal of encroachments on public pathways, public roads, public streets and all other public places. The relevant portion of the order is extracted hereunder:

'5.Our Constitution is a radiant and vibrant organism and under the banner of Sovereign, Socialist, Secular, Democratic Republic, steadily grows spreading the fragrance of its glorious objectives of securing all citizens: Justice-Social, Economic and Political. For securing the above cherished objectives equally to all citizens irrespective of their religion, race, caste, sex, place of birth and the chronic socio-economic inequalities and the disadvantages, the Constitution having very high expectations from the judiciary, has placed great and tremendous responsibility, assigned a very important role and conferred jurisdiction of the widest amplitude to this



WEB COPY



W.P(MD)No.635 of 2023

Courts for ensuring the principle of The 'RULE OF LAW', which runs through the entire fabric of the Constitution.

6. In this regard, we make it clear that no person or section of the society can claim a separate right or raise objections in the name of political parties (or) social organisations (or) religion, as the State does not owe loyalty to any particular section as such; it gives equal freedom to all its citizens. That is the essential characteristic of secularism and democracy, which are writ large in all the provisions of the Indian Constitution.

7. In our considered opinion, such objections raised either in the name of political parties (or) social organisations (or) religion, will not stand to the test of either 'public interest' or 'public discipline', which would prevail over any rights of the individuals (or) organizations (or) religion conferred under Articles 19(1) and 25(1) of the Constitution of India, as such rights are subservient to the 'public interest' in view of Articles 19(2) and 25(2) of the Constitution of India. Hence, the alleged objections from whichever corner it may be, shall not and need not be yielded while protecting public interest at large, as indicated in the order dated 2.2.2005 made in the above writ petition.'

Therefore, there was a direction to all the District Collectors, Commissioners of Municipal Corporations, Municipalities and Local Bodies to comply with the order passed by the Hon'ble Division of this Court without any undue delay.



W.P(MD)No.635 of 2023

9.The above case is squarely applicable to the case on hand. Thus, there should not be any obstruction in the public pathway or road by putting up any arch in the name of any Temple, flex board or digital board. In view of the above, this Court finds no infirmity or illegality in the order passed by the third respondent, dated 30.12.2022. Hence, this Writ Petition is devoid of merits and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. The respondents 1 to 4 are directed to take immediate steps to remove the arch put up by the petitioner for the Shree Muppidathiamman Temple in the public road that too by obstructing vehicle movements and the general public movement in the Government land which is classified as Natham Road, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

05.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



W.P(MD)No.635 of 2023

WEB COPY

To

- 1.The District Collector,
The Collectorate Office,
Tenkasi District.
- 2.The Revenue Divisional Officer,
The Revenue Divisional Office,
Tenkasi District.
- 3.The Block Development Officer,
The Block Development Office,
Keelapaavoor,
Tenkasi District.
- 4.The Tahsildar,
Taluk Office,
Tenkasi District.
- 5.The Assistant Director of Panchayat Union,
The Office of the Assistant Director of Panchayat Union,
Tenkasi District.
- 6.The Superintendent of Police,
Tenkasi District.
- 7.The Deputy Superintendent of Police,
The Office of the Deputy Superintendent of Police,
Tenkasi District.
- 8.The Inspector of Police,
Paavoor Chathiram Police Station,
Tenkasi District.



WEB COPY



W.P(MD)No.635 of 2023

G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)No.635 of 2023

05.12.2024