



W.P.(MD) No.11861 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**W.P.(MD) No.11861 of 2024
and
W.M.P.(MD) No.10568 of 2024**

M.Ramaiya

... Petitioner

/vs./

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.
- 3.The Tahsildar,
Mudukulathur,
Ramanathapuram District.
- 4.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
No.40, Muthusamy Nagar,
Tirupathur Road,
Sivagangai District.



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5.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Ramanathapuram District.

6.S.Varatharajan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondent No.4 and 5 to ensure that not to provide any special privilege/honor to the 6th respondent or any other person and permit the village people to conduct the temple festival i.e. 'Puravi edukum Vizha' at Arulmigu Sri Perayaram Moorthy Ayyanar and Karuppannaswamy scheduled to be held on 07.06.2024 peacefully strictly in accordance with law and by considering the representation preferred by villagers of Mudukulathur Taluk, Ramanathapuram District on 24.05.2024 within the time that may be stipulated by this Court.

For Petitioner	: Mr.Ajmal Khan, Senior Counsel for M/S.Ajmal Associates
For R1, R3, R4 & R5	: Mr.P.T.Thiraviam Government Advocate
For R2	: Mr.S.Manikandan Government Advocate (Crl.side)
For R6	: Mr.VR.Shanmuganathan



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ORDER

Heard Mr.Ajmal Khan, learned Senior Counsel for M/S.Ajmal Associates, Mr.P.T.Thiraviam, learned Government Advocate for the respondents 1, 3, 4 and 5, Mr.S.Manikandan, learned Government Advocate (Crl.side) for the second respondent and Mr.VR.Shanmuganathan, learned counsel for the sixth respondent.

2.The petitioner has filed this Writ Petition for a Mandamus to direct the respondents 4 and 5 to ensure that no special privilege/honor is bestowed on the 6th respondent in the conduct of the temple festival titled 'puravi edukum vizha' on 07.06.2024 in Arulmighu Sri Perayaram Moorthy Ayyanar and Karuppannaswamy.

3.The grievance of the petitioner is that the sixth respondent has obtained an order from the fourth respondent/the Joint Commissioner in O.A.No.7 of 2019 on 22.02.2024 under Section 63 (e) of the HR & CE Act, 1959 behind the back of the petitioner. It is submitted that the aforesaid temple was closed from 2019 on account of the attitude of the sixth respondent, which had resulted in law and



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order situation and that the aforesaid order dated 22.02.2024 in O.A.No.7 of 2019 has been secured behind the back of the petitioner.

4.It is submitted that although the petitioner proposes to file a statutory appeal before the Commissioner under Section 69(2) of the HR & CE Act, 1959, the petitioner was taken by surprise as the temple was opened on 17.05.2024 and arrangements have been made for giving certain privilege to the sixth respondent, which is non existent in the temple.

5.According to the petitioner, the temple is a community temple and that no person is entitled to any privilege and the offerings are from the public and the members of the community, who congregate in the aforesaid temple.

6.The learned Senior Counsel appearing for the petitioner would submit that the aforesaid order of the Joint Commissioner dated 22.02.2024 passed under Section 63(e) of the HR & CE Act, 1959, is not a judgment *in rem* but a judgment *in personam* and therefore, no special privilege can be conferred on the sixth respondent in dereliction of the rights of the public, which includes the petitioner,



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who is also a devotee of the aforesaid temple.

7.The learned Government Advocate for the respondents 1, 3, 4 and 5 would submit that only limited privilege has been conferred on the sixth respondent insofar as carrying of the pooja offerings and that no first honor has been conferred. It is submitted that the right of 'parivattam' (tying of the Turban) has also been conferred, which marks the ultimate honor.

8.That apart, the learned counsel for the official respondents would submit that after the order was passed by the Joint Commissioner on 22.02.2024 in O.A.No.7 of 2019, the temple, which was under lock and seal, was opened on 17.05.2024, in the presence of disputing parties before the Joint Commissioner in O.A.No.7 of 2019 as also the other villagers and therefore submits that the arrangements made for the temple festival including the limited rights recognized by the Joint Commissioner in the aforesaid order cannot be disturbed at this 11th hour, as all the arrangements have been made.



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9.The learned counsel for the sixth respondent would submit that O.A. was filed in the year 2019, even before the temple was closed. It is submitted that the first respondent in O.A.No.7 of 2019 is none other than the petitioner's own cousin and that the devotees are from the same village and all the devotees are aware of the developments surrounding the temple festival.

10.It is submitted that merely because the order was passed on 22.02.2024 in O.A.No.7 of 2019 and thereafter, the temple was opened on 17.05.2024 in the presence of the villagers, it would not give a right to the petitioner to disturb the arrangements made for the temple festival on the 11th hour by filing this writ petition on 05.06.2024. It is submitted that the writ petition is devoid of merits and is therefore liable to be dismissed.

11.That apart, the learned counsel for the sixth respondent would draw attention to the peace committee meeting held on 15.05.2024, wherein the rival parties were present, pursuant to which the temple was opened in the presence of the Tahsildar on 17.05.2024.



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12.I have considered the arguments advanced by the learned Senior Counsel for the petitioner, learned Government Advocate for the respondents 1, 3, 4 and 5, learned Government Advocate (Crl.side) for the second respondent and the learned counsel for the sixth respondent.

13.As a matter of fact, the petitioner has an alternate remedy by way of appeal before the Commissioner under Section 69(2) of the HR & CE Act, 1959. The petitioner has approached this Court at the last movement after all the arrangements have been made pursuant to the order passed by the Joint Commissioner. Unless the order of the Joint Commissioner is put to jeopardy, no order can be passed to dilute the same in a Writ filed by the petitioner for the Mandamus.

14.Considering the fact that all the arrangements have been made and considering the fact that only limited privilege has been conferred on the sixth respondent, I find no merit in interfering with the proposed temple festival to be held on 07.06.2024 (ie., tomorrow).



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15. Therefore, this Writ Petition stands dismissed. However, it is open for the petitioner to challenge the order passed by the Joint Commissioner in O.A.No. 7 of 2019 dated 22.02.2024 in the manner known to law for the ensuing festival during the next year. The Official respondents are directed to ensure that the temple festival is conducted in a peaceful manner. The second respondent is directed to deploy Inspector of Police, Muthukulathur Police Station, Ramanathapuram District, adequate number of Police Constables and police force during the temple festival. The fifth respondent is directed to ensure that no other privilege other than the privilege that has been recognized in the order dated 22.02.2024 is conferred on the sixth respondent for the current year.

No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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C.SARAVANAN, J.

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