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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.21225 of 2024
and
W.M.P(MD)Nos.17975 and 17976 of 2024

R.Balakrishnan ...Petitioner

Vs.

1.The Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2.The Deputy Superintendent of Police,
Tenkasi, Tenkasi District.

3.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.ka. No.13/General/Se.Mu/Aa/The.Oo/2024, dated 31.08.2024 passed by the second respondent and quash the same as illegal and conseqnuently, direct the respondents to give permission to conduct Vinayagar Sathurthi festival scheduled at LRS Palayam Periya Chavadi, Tenkasi Town as stated in the representation of the petitioner, dated 27.07.2024 given to the respondents.

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For Petitioner : Mr.R.J.Karthick

For Respondents : Mr.M.Muthu Manikkam,
Government Advocate (Civil Side),
for R1.

: Mr.Veerakathiravan,
Additional Advocate General,
asst.by Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor,
for R2 & R3.

ORDER

The Writ Petition is directed against the impugned order in Na.ka. No.13/General/Se.Mu/Aa/The.Oo/2024, dated 31.08.2024 passed by the second respondent and quash the same as illegal and consequently, direct the respondents to give permission to conduct Vinayagar Sathurthi festival scheduled at LRS Palayam Periya Chavadi, Tenkas Town as stated in the representation of the petitioner, dated 27.07.2024 given to the respondents.

2. Mr.M.Muthumanikkam, learned Government Advocate (Civil Side) takes notice for the first respondent and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor takes notice for the respondents 1 and 2. By consent, this writ petition is taken up for final disposal at the admission stage itself.

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3. It is not in dispute that the petitioner has earlier filed a petition in W.P.(MD)No.20984 of 2024, seeking a writ of mandamus, directing the respondents to give permission to conduct Vinayagar Chathurthi festival scheduled at LRS Palayam Periya Chavadi, Tenkasi Town as stated in the representation of the petitioner, dated 27.07.2024 and when the said petition was taken up for hearing, the learned Additional Advocate General would submit that the second respondent has passed an order, dated 31.08.2024, rejecting the petitioner's representation on the ground that the petitioner, without obtaining permission, installed the Vinayagar Idol and the same was removed last year. Considering the submission made on either side, this Court directed the petitioner to give fresh representation to the Deputy Superintendent of Police/second respondent and on receipt of the same, the second respondent was directed to consider the same and pass orders in accordance with law within a period of two days from the date of receipt of copy of that order.

4. The learned counsel for the petitioner would submit that the second respondent instead of passing the order in pursuance of the directions of this Court made the first respondent to pass the impugned

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order and that the first respondent has passed the impugned order, dated 04.09.2024, signed on 05.09.2024, rejecting the petitioner's representation on the basis of the letter given by the third respondent that there is every possibility for law and order problem, if the celebration is proceeded with.

5. When the matter is taken up for hearing today, the learned Additional Advocate General has raised serious objections mainly on the ground that permission was granted to celebrate the festival in the Shenbaha Vinayagar Temple situated just 25 meters away from the LRS Palayam Periya Chavadi, Tenkasi Town proposed by the petitioner and that the petitioner has not conducted the festival earlier and that even in the last year, without permission they have installed the idol and hence, the same came to be removed by the police authorities.

6. At this juncture, the learned counsel for the petitioner would submit that they are not conducting any procession, but they may be permitted to install the Vinayagr idol in LRS Palayam Periya Chavadi and take Vinayagar statue without procession on the date and route to be fixed by the respondent Police for immersion and he has also filed an affidavit in that regard.

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7. It is not in dispute that though this Court has directed the second respondent to pass orders within two days, he has not passed any orders till now. As rightly contended by the learned counsel on either side, two days period given by this Court expires only today.

8. The affidavit filed by the petitioner is recorded. Considering the above facts and circumstances of the case and taking note of the affidavit filed by the petitioner and the submission made by the learned Additional Advocate General, the respondents 1 and 2 are directed to grant permission to the writ petitioner to install the Vinayagar idol on the occasion of Vinayagar festival on 07.09.2024 at LRS Palayam Periya Chavadi by imposing necessary conditions and also subject to the following conditions :

(a) There should not be any kind of obscene dance or vulgar dialogues during the festival, by anyone of the participants;

(b) No dance or songs, touching upon any political party or religion, community or caste be played;

(c) No flex boards in support of any political party or religious leader be erected;

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(d) The function should not affect either religious or communal harmony and shall be conducted without any discrimination based on caste;

(e) If there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such festival;

(f) the participants of the festival shall not intake any kind of toxic substance or liquor during the festival;

(g) If there is any untoward incident took place, the writ petitioner and the organizers of the festival may be made responsible for the same; and

(h) The organizers shall not cause any hindrance to general public or transport in any manner.

The respondents 1 and 2 are directed to issue necessary permission and protection for ensuring the peaceful event. The petitioner is directed to take the Vinayagar Idols in a vehicle without procession, on the date and route to be fixed by the respondents for immersion.

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9. With the above direction, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

06.09.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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Note : Issue order copy on 06.09.2024

To

1.The Revenue Divisional Officer,
Tenkasi, Tenkasi District.

2.The Deputy Superintendent of Police,
Tenkasi, Tenkasi District.

3.The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.

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

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K.MURALI SHANKAR, J

das

Order made in
W.P.(MD)No.21225 of 2024
and
W.M.P(MD)Nos.17975 and 17976 of 2024

Dated : 06.09.2024

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