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W.P.(MD) No.9550 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.9550 of 2015

N.Ilango

... Petitioner

-VS-

1.The Chief Secretary
to Government of Tamilnadu
Fort St.George, Chennai-600 009

2.The Secretary to Government of Tamilnadu
Public Works Department
Fort St.George
Chennai-600 009

3.The Chief Executive Engineer
Public Works Department
(Water Resources Organization)
Chennai

4.S.Asokan
(Irrigation)
Chief Engineer
Water Resources Organization
Thirichy Divisional
Thirichy-620 020
Thirichy District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 to 3 to take appropriate punitive action against the fourth respondent for his unlawful act and to adhere the direction given by this Court in W.P.(MD) No.3298 of 2010, dated 17.03.2010.

For Petitioner : Ms.G.Uma Maheswari
for Mr.D.Veerasekaran

For Respondents : Mr.T.Amjadkhan
Government Advocate for R1 to R3
No appearance for R4

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the respondents 1 to 3 to take appropriate punitive action as against the fourth respondent for his unlawful act and to direct them to adhere the directions issued by this Court in W.P.(MD) No.3298 of 2010, dated 17.03.2010.

2. According to the petitioner, the Government has passed a G.O.Ms.No.426, Personnel & Administrative Reforms (PER-A) Department, dated 13.12.1993, wherein a specific instruction was issued to all the Head of



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Department / District Collector / Head of Office to ensure that no construction of any new structure for religious worship or prayer within the office campus, or enlargement or modification of any existing structure for similar purpose is permitted.

3. Further, according to the petitioner, earlier a writ petition in W.P.(MD) No.3298 of 2010 came to be filed by one S.P.Muthuraman seeking a direction to the respondents therein to pass appropriate orders to restrain the conduct of all sorts of religious activities within the precincts of Government Offices with a further direction to appoint a District Level Special Committee to have periodical supervision to ensure that the ban imposed by the Government is implemented. The Division Bench of this Court, by order dated 17.03.2010, directed the respondents therein to take all necessary steps to implement the specific directions issued in the said G.O.Ms.No.426, dated 13.12.1993 and to take all possible steps for maintaining a communal harmony in the Government Offices, without giving room for hitch from any quarters.



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4. Further, according to the petitioner, despite the said Government Order and the directions issued by this Court, the fourth respondent has issued a circular to his subordinates to perform special poojas on 01.06.2015 in the important temples for getting rain. Hence, seeking appropriate action as against the fourth respondent, the petitioner has filed the present writ petition.

5. The second respondent has filed a counter affidavit refuting the averments made in the affidavit filed by the petitioner. The second respondent has stated that in order to give confidence to the farmers and the residents of Salem, Erode, Namakkal, Karur, Tiruchirappalli, Thanjavur, Thiruvarur and Nagapattinam Districts and to enthuse them, prayers are being conducted by the Public Works Department for the past several years for mainly worshipping the nature alone and not the god of any particular religion. Following the same, the fourth respondent has issued the circular requesting his subordinates to conduct poojas in the temples for getting rain. Therefore, it cannot be either unconstitutional or unlawful on the part of the fourth respondent.



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6. Further, the second respondent, in his counter affidavit has relied on the decisions of this Court in **S.P.Muthuraman vs. Chief Secretary and others**, reported in **(2012) 2 MLJ 647**, wherein it has been held as follows:

“24.In this case there is no allegation of new construction or expansion or modification for religious worship or prayer in the office premises. The relief sought for by the petitioner is to restrict the individual's right to freely profess and practice religion is without any basis and without a cause of action. The present writ petition filed by the very same petitioner differently worded lacks bonafides. The respondents are not conducting any religious activity in the Government Office Premises and hence the prayer is misconceived.”

7. In **Dravidar Kazhagam rep.by the General Secretary K.Veeramani vs. The Chairman, United India Insurance Company Limited**, reported in **(1992) 1 MLJ 530**, this Court as observed as follows:

“9. ...

Secularism does not mean irreligion or anything anti-religious. Further while interpreting the word secularism has reiterated in our India Constitution which clearly says that “an ardent follower of his own religion



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looks upon all other religious as different pathways to the same goal – God.

It is pertinent to note that our State does not identify itself with any religion. The State in the sense of its complete disassociation from religion but rather an attitude of religious neutrality, with equal treatment to all religions and religious minorities.

...

The contention of the petitioner therein proceeds upon an assumption that secularism means that the State must not associate itself with religion at all and must have nothing to do with it.”

8. In *Perunchithirananar vs. State of Tamil Nadu*, reported in (1985) 2 MLJ 56, this Court has held as follows:

“The word 'secular', among other things, means pertaining to the present world, or to things not spiritual, civil, not ecclesiastical; lay; not concerned with religion; not bound by monastic rules. A 'Secular State' means, a 'non-religious' and not 'irreligious' State. What follows is that the Government should not be wedded or bound to any one religion, but should give equality of treatment to every religion practised in the country. Article 15 of the Constitution prescribes the State from discriminating against any citizen or grounds only of religion, race,



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caste, sex, place of birth or any of them. The State is therefore bound to give protection and afford facility to various sections of people to practise and follow their religious customs..... The performance of such duty by the State can, by no stretch of imagination, be characterized as non-secular activity. The argument of the petitioner to the contrary is, obviously based on a misconception.”

Hence, the circular issued by the fourth respondent to his subordinates to conduct poojas in the temples will not amount to violation of any religious belief, faith or degrade the scientific temperament. Therefore, he prays for dismissal of this writ petition.

9. We have heard the learned counsel on either side and carefully perused the materials available on record.

10. At the first outset, it is relevant to refer G.O.Ms.No.426, dated 13.12.1993, which is extracted hereunder:

“The draft amendment to Tamil Nadu Government Office Manual suggested by the Principal commissioner and Commissioner of Revenue Administration, Madras in his letter 3rd read above is approved with slight



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modifications. The amendment as approved is appended to this order.

2.The Principal Commissioner and Commissioner or Revenue Administration, Madras, is requested to take necessary action to issue slips to the Tamil Nadu Government Office Manual.

AMENDMENT

In the said Manual under Part I – III General discipline etc., after para 9, the following para shall be added, namely, -

Para 9A. Practice of worship by Government staff at Office premises:-

“Head of Department / District Collector / Head of office shall ensure that no construction of new structure for religious worship or prayer within the office campus, or enlargement or modification of any existing structure for similar purpose is permitted.””

11. A careful perusal of the above Government Order shows that it prohibits construction of new structure or enlargement or modification of any existing structure for religious worship or prayer within the office campus. The allegation of the petitioner is that contrary to the Government Order and



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directions issued by this Court, the fourth respondent has issued a circular to his subordinate to conduct poojas in the temples for getting rain. However, G.O.Ms.No.426, dated 13.12.1993, does not prohibit any authority from directing his subordinates to conduct poojas in temples, on the other hand, it deals with the practice of worship by Government staff in the office premises alone. In such circumstances, we find no merit in this writ petition and the same is liable to be dismissed.

12. Accordingly, this writ petition is dismissed. No costs.

[D.K.K., J.]

[R.V., J.]

23.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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to Government of Tamilnadu,
Fort St.George, Chennai-600 009.
- 2.The Secretary to Government of Tamilnadu,
Public Works Department,
Fort St.George,
Chennai-600 009.
- 3.The Chief Executive Engineer,
Public Works Department,
(Water Resources Organization),
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