



W.P(MD)No.15156 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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CORAM: 11.06.2025

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.15156 of 2025

and

W.M.P.(MD)No. 11434 of 2025

Pr.Kanakaraj

...Petitioner

Vs.

1. The Assistant Chief Secretary to the Government of Tamil Nadu,
Town Panchayat and Water Supply Department
St.George Fort.
Chennai-600 009.

2. The District Collector,
Kanyakumari District,
Nagercoil.

3. The Superintendent of Police,
Kanyakumari District,
Nagercoil.

4. The Revenue Divisional Officer,
Padmanabhapuram Division,
Thuckalay,
Kanyakumari District.

5. The Tahsildar,
Vilavancode Taluk,
Kuzhithurai,
Kanyakumari District.

6. The Executive Officer,
Edaicode Town Panchayat,
Edaicode Post,
Kanyakumari District.

...Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 6th respondent dated 12.03.2025 and to quash the same and to direct the 2nd respondent to give no objection certificate about the petitioner church prayer activities and to direct the 6th respondent to give regularised church plan approval for the construction in survey number 552/14A Anducode 'A' Village, Kanyakumari District.

For Petitioner	: Mr.M.Punitha Deva Kumar
For R1 to R5	: Mr.M.Lingadurai Special Government Pleader
For R6	: Mr.D.Sadiq Raja Additional Government Pleader

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Writ of Certiorarified Mandamus, to quash the impugned order passed by the 6th respondent dated 12.03.2025 and to direct the 2nd respondent to give no objection certificate to the petitioner church prayer activities and to direct the 6th respondent to give regularized church plan approval for the construction in survey number 552/14A Anducode - 'A' Village, Kanyakumari District.

2. The brief facts as stated in the affidavit are that the “Jesus Alive



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“Church” was established in the year 2012, which is under the control of “Jesus Alive Trust” and the Trust was registered under the Indian Trust Act. The church is conducting gospel apart from conducting marriage of the believers and their family members. The land tax, building tax, patta and electricity connection are also in the name of the Church. In the year 2014, the petitioner constructed the church building without any planning approval from the 6th respondent who is the local authority. The contention of the petitioner is that due to urgency the petitioner was not able to get permission or plan approval from the 2nd respondent District Collector or the 6th respondent Executive Officer of the Town Panchayat.

3. The contention of the petitioner is that for the past 14 years the petitioner without disturbing anyone is conducting the church prayer activities and also not disturbing anyone of the locality. Hence at that point of time, the petitioner felt the permission or plan approval are not necessary and are not important. However, one Sudarsan of nearby locality submitted a complaint against the petitioner and its prayer activities and had filed W.P.(MD)No.5012 of 2024 for Mandamus to stop the prayer activities. On 04.03.2023 the Hon'ble Court directed the officials to stop the prayer activities however the same is passed without notice to the petitioner.

4. In such situation, the petitioner is in need of plan approval for



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Church. Hence the petitioner submitted the plan approval application to the 2nd respondent, District Collector on 05.07.2023 for seeking permission to convert the building into church for spiritual activities. On 02.03.2024, the petitioner applied to the 6th respondent for plan approval for conducting a church prayer. Since the 6th respondent delayed to grant the approval of the petitioner's application, hence the petitioner filed W.P.(MD)No.4569 of 2025 and this Court vide order dated 20.02.2025 directed to consider the petitioner's application dated 02.03.2025 on merits and pass appropriate orders. Based on the direction the present impugned order was passed and the petitioner's plan approval was rejected.

5. The contention of the petitioner is due to inducement and illegal action of the said Sudharsan the impugned order was passed and the 6th respondent has closed the church and affixed seal. For the past 6 months the church building was not opened, hence the building is getting damaged, which is causing irreparable loss and hardship to the petitioner. Hence the present writ petition was filed.

6. The Learned Special Government Pleader submitted the written instructions given by the respondents before this Court. It is seen that the petitioner had purchased a house and had demolished the same. The said demolition itself is without any permission. Further the petitioner without any



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permission from the District Collector had constructed prayer hall and was running illegally the prayer hall. One Sudharsan had preferred complaint regarding the illegal construction of prayer hall and conducting of prayer meeting with loud speakers thereby causing nuisance to the general public. When no action was taken, the said Sudharsan had filed W.P.(MD)No.5012 of 2024 inter alia praying for writ of Mandamus to consider the representation dated 10.07.2023. The Court had directed the authorities to ascertain whether prior permission was obtained by the petitioner, if it is found that the petitioner had not obtained any prior permission then the Court had directed to stop the activities without any delay. The respondents had conducted enquiry and had rendered a finding that the petitioner had not obtained any permission or plan approval for putting up the prayer hall and has not obtained any permission for conducting prayer meeting. After the said finding, the respondents had closed the prayer hall and affixed seal.

7. Thereafter the petitioner had submitted application dated 02.03.2025 and had filed W.P.(MD)No.4569 of 2025 to consider the same. This Court vide order dated 20.02.2025 had directed to consider and pass orders. Based on the direction of the Court the present impugned order has been passed by the 6th respondent. The 6th respondent had stated in the impugned order that the Local



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Authority cannot consider the plan approval unless the District Collector issues “No Objection Certificate”. Hence it is submitted by the Learned Special Government Pleader that the petitioner’s application was rejected.

8. I have considered the submissions made on either side and perused the materials available on records.

9. There is no dispute that the petitioner had purchased the 5 ½ cents land along with building. But the petitioner has not obtained any building approval from the concerned Panchayat when they put up prayer hall in the year 2014. As per Rule 4(3) of the Tamil Nadu Panchayat Building Rules 1997 no site shall be used for construction of a building intended to be worship or religious purpose without prior approval of the District Collector. The relevant provision is extracted hereunder:

“No site shall be used for the construction of a building intended for public worship or religious purposes without the prior permission of the Collector of the district who may refuse such approval, if in his opinion, the use of the site and buildings is likely to endanger public peace and order”.

10. A careful perusal of the above said rule clearly divulges that the prior permission of the District Collector is required for using a site to construct a



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building intended for public worship or religious purpose. The District Collector has got discretion either to grant or refuse such approval. Further it is not a mere formality to seek permission of the District Collector. The District Collector has to formulate an opinion whether the usage of said site and the building is likely to endanger the public peace and order. In the present case, without obtaining for the prior approval of the District Collector, already the petitioner had put up construction, hence the same is totally illegal.

11. Further the District Collector ought to seek report of the revenue and police authorities to arrive at a finding whether there is a likelihood of disturbance to public peace and order. In the present case, already there is a complaint from one Sudharsan that there is nuisance besides it is disturbance to the public peace and order.

12. Furthermore, the District Collector ought to ascertain whether there are any other churches, temples within 100 meters from the disputed church. If so, then the District Collector cannot grant any approval or no objection certificate, since the same would be a disturbance to the public peace and order. In fact, as per Justice Venugopal Committee's report the District Collector ought to ascertain the necessity for any church and how many Christian families are living



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in the said area for putting up such church. In the present case, such survey report is not there, the report of Revenue Officials and the report of Superintendent of Police are not there. When such reports are not there, the District Collector cannot issue “no objection” certificate. In such circumstances, the Local Authority is right is not granting any plan approval and the impugned order of the 6th respondent is legally valid.

13. The Learned Counsel appearing for the petitioner submitted that the right to construct church and worship is fundamental right. No doubt that right to religion is a fundamental right but the same is subject to law and order and public peace. The Hon'ble Supreme Court in a judgment reported in **(2004) 4 SCC 684** (*State of Karnataka and another Vs. Dr.Praveen Bhai Thogadia*) in Paragraph No.6 has held as follows:

“6. Courts should not normally interfere with matters relating to law and order which is primarily the domain of the administrative authorities concerned. They are by and large the best to assess and to handle the situation depending upon the peculiar need and necessities within their special knowledge. Their decision may involve to some extent an element of subjectivity on the basis of materials before them. Past conduct and antecedents of a person or group or an organisation may certainly provide sufficient material or basis for the action contemplated on a reasonable expectable of possible turn of events, which may need to be avoided in public interest and maintenance of law and order.....”



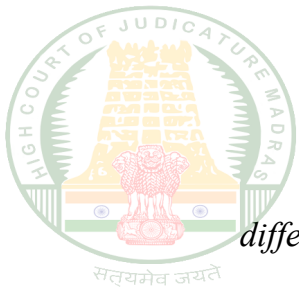
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14 .The Hon'ble Supreme Court in a judgment reported in **(2004) 7 SCC 467 (*Commissioner of Police and others Vs. C.Anita*)** in Paragraph No.12 has held as follows:

“12. The true distinction between the areas of law and order and public order lies not merely in the nature of quality of the act, but in the degree and extent of its reach upon society. Acts similar in nature, but committed in different contexts and circumstances, might cause different reactions. In one case, it might affect specific individuals only, and, therefore, touches the problem of law and order only, while in another it might affect public order. The act by itself, therefore, is not determinant of its own gravity. In its quality it may not differ from other similar acts, but in its potentiality, that is, in its impact on society, it may be very different”

15. The Hon'ble Supreme Court in a judgment reported in **(1970) 1 SCC 98 (*Arun Ghosh Vs. State of West Bengal*)** in Paragraph No.3 has held as follows:

“3.....Public order is the even tempo of the life of the community taking the country as a whole or even a specified locality. Disturbance of public order is to be distinguished from acts directed against individuals which do not disturb the society to the extent of causing a general disturbance of public tranquillity. It is the degree of disturbance and its affect upon the life of the community in a locality which determines whether the repercussions of the act embrace large sections of the community and incite them to make further breaches of the law and order and to subvert the public order. An act by itself is not determinant of its own gravity. In its quality it may not



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differ from another but in its potentiality it may be very different.....”

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16. The Hon'ble Division Bench of our High Court in a judgment reported in **(2004) 5 CTC 554 (Rama.Muthuramalingam, State Propaganda Committee Members, Tiruvarur District Vs. The Deputy Superintendent of Police, Mannargudi, Tiruvarur District and others)** in Paragraph No.10 has held as follows:

“10.Maintenance of law and order is ordinarily an executive function and it is ordinarily not proper for the judiciary to interfere in this matter. The administrative authorities have expertise in law and order problems through their long experience and training, and the Courts should not ordinarily interfere in such type of matters. The judiciary must therefore exercise self-restraint and not try to interfere with the functions of the executive or the legislature. By exercising self- restraint it only enhances its prestige”.

17. A perusal of the above said judgments of the Hon'ble Supreme Court and the judgment of our High Court will clearly indicate that as far as the issue of law and order or public order is concerned, it is for the administrative authorities to arrive at a particular finding. They have expertise in handling law and order problem and the Court should not ordinarily interfere in such matters unless it is established that the action of those authorities are actuated by malice or in violation of statutory provisions of law. In the present case, there is no



allegation on the side of the petitioner that the order impugned in the writ petition is in violation of statutory provision or it has been actuated by malice. In such view of the matter, this Court has got very limited scope to interfere in the impugned order.

18. Article 25 of the Constitution of India is extracted hereunder:

“25. Freedom of conscience and free profession, practice and propagation of religion: (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I:- The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion. Explanation II:- In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly”

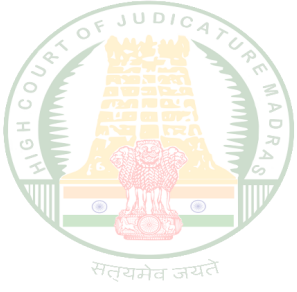


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19. The right to freedom of conscience and free profession, practice or propagation of religion is always subject to public order, morality and health and to the other provisions of part three of Constitution of India. Hence, the right to freedom of religion expressed by way of congregation in a Church is always subject to public order and the said constitutional rider is incorporated in Rule 4(3) of the Tamil Nadu Panchayat Building Rules 1997.

20. Infact the respondents based on the order passed in W.P.(MD)No. 5012 of 2024 has conducted enquiry, visited the spot and thereafter has come to the conclusion that the said church was opened without permission and the same is disturbance to the law and order and public peace and thereafter had locked the premises and affixed the seal. In view of the above said facts, this Court is not in a position to entertain the present writ petition under Article 226 of Constitution of India and cannot substitute the opinion of the respondents relating to the issue of public order in a particular hamlet.

21. With the above observations, the impugned order is confirmed and the Writ Petition is dismissed. There shall be no order as to costs. Consequently connected miscellaneous petition is closed.



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NCC : Yes / No
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S.SRIMATHY, J.

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**ORDER MADE IN
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DATED :11.06.2025