
(2005) 08 MAD CK 0051

In the Madras High Court

Case No : Writ Petition No's. 16804 of 2003 and 21187 of 2005

Albert Raj

APPELLANT

Vs

The District Collector

RESPONDENT

Date of Decision : 03-08-2005

Acts Referred:

Constitution of India, 1950 — Article 14, 15, 16, 17, 18

Citation : AIR 2005 Mad 444 : (2005) 4 CTC 171 : (2005) 4 LW 226

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : K. Chandru, for the Appellant; E. Sampath Kumar, Government Advocate for Respondent Nos. 1 and 2 in W.P. No. 16804 of 2003 and Respondents Nos. 1 to 5 in W.P. No. 21187 of 2005 and V. Subbarayan, in W.P. No. 16804/2003, for the Respondent

Judgement

P.D. Dinakaran, J.—Heard both sides.

2. By consent, the writ petitions are taken for hearing.

3.1. In W.P. No. 16804 of 2003, the petitioner seeks a writ of Certiorarified Mandamus to call for the records of the first respondent dated

31.3.2002 in RC. No. 66444/99 (C3) and quash the same as illegal and unlawful and direct the first respondent to accord permission to construct

the Panavilai C.S.I. Church Building in R.S. No. 183/3 of Colachel Village, Kanyakumari District.

3.2. In W.P. No. 21187 of 2005, the petitioner seeks a writ of Mandamus to forbear respondents 1 to 5 or their subordinates or anybody

claiming under them from disturbing or obstructing from conducting marriages in Panavilai C.S.I. Church in Kanyakumari District.

4. Concededly, planning permission for construction of the Panavilai C.S.I.

Church Building in R.S. No. 183/3 of Colachel Village, Kanyakumari

District was already sanctioned by the third respondent in W.P. No. 16804 of 2003 and the same is also supported by the report of the Revenue

Divisional Officer dated 11.11.1999. However, by the impugned proceedings dated 31.3.2002, the District Collector, Kanyakumari District at

Nagercoil, on unsustainable reason, namely there are only a few C.S.I. Christians in the hamlet of Panavilai, rejected the permission for

construction of the Church Building. Even as per the impugned proceedings of the first respondent dated 31.3.2002, a Hindu Temple is located at

the distance of 198 feet away from the proposed Church Building.

5. Article 25(1) of the Constitution of India states that 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.

6. That apart, the Division Bench of this Court, by order dated 14.7.2005 made in W.P. No. 5202 of 1998, held as follows:

...13. This is a free, democratic and secular country. In our country people of all religions, castes and communities are equal under the

Constitution, vide Articles 14 to 18, and they have a right freely to practice their religion, vide Article 25. This country does not belong to Hindus

alone. It belongs equally to Muslims, Christians, Buddhists, Jains, Parsis, Sikhs, Jews, etc., and all are equal under the law. Also, it is not that only

Hindus can live in this country as first rate citizens while others can live only as second rate citizens. That is not so. In our country all citizens are,

and are entitled to live, as first rate citizens. It is the greatness of our Founding Fathers who made the Constitution that at the time of Independence

in 1947 when the sub-continent was engulfed in religious madness they insisted that our country shall not be declared as a Hindu State, but shall be

a secular State. This was indeed a very difficult thing to do at that time, because when passions are inflamed it is difficult to keep a cool mind.

There must have been tremendous pressure on our Founding Fathers to declare India a Hindu State, particularly since Pakistan had declared itself

an Islamic State. It is the greatness of our Founding Fathers that they kept a cool mind and resisted these pressures, and provided for a Secular

State in India under our Constitution.

14. A basic feature of India is that it is a country with tremendous diversity having so many religions (including their different sects), castes

(including hundreds of sub-castes), communities, languages, ethnic groups, etc. Hence, the only policy that can work in this country, and keep it

united and on the path of progress is the policy of secularism and giving equal respect to all religions, castes, ethnic groups, communities,

languages, cultures, etc. Without such a policy our country cannot survive for long.

7. In view of the fundamental right guaranteed to the citizens under our Constitution, viz., freedom of conscience and the right freely to profess,

practise and propagate religion, which right is not restricted or qualified with reference to the number of persons living in a particular locality and

applying the decision of the Division Bench of this Court in the order dated 14.7.2005 made in W.P. No. 5202 of 1998, I find that the impugned

order dated 31.3.2002 passed by the first respondent is illegal, unconstitutional and is therefore liable to be quashed. Hence W.P. No. 16804 of

2003 is allowed and the impugned order dated 31.3.2002 passed by the first respondent is quashed.

In view of the order passed in W.P. No. 16804 of 2003, no further orders are required in W.P. No. 21187 of 2005 and the same is dismissed.

No costs. Consequently, W.P.M.P. Nos. 23092 and 25430 of 2005 are closed.