
(2005) 12 MAD CK 0024

In the Madras High Court

Case No : Writ Petition No. 39381 of 2005 and W.P.M.P. No. 42191 of 2005

A.P. Dhas

APPELLANT

Vs

The Director General of Police and Others

RESPONDENT

Date of Decision : 09-12-2005

Acts Referred:

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

Citation : (2006) 1 LW 361

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

Bench : Single Bench

Advocate : K. Chandru, SC for C. Robert Bruce, for the Appellant; S. Venkatesh, Special Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

P.D. Dinakaran, J.—Heard both sides.

2. By consent, the writ petition itself is taken up for hearing.

3. The petitioner seeks for the issuance of a writ of certiorarified mandamus forbearing respondents 1 to 5 in any manner interfering with or

obstructing the extension work of the existing Koottamavu C.S.I. Church in Kanyakumari District by the petitioner and call for the entire records

pertaining to the impugned order passed by the third respondent in his proceedings D.Dis.(C3) 96001/2002, dated 20.11.2005 and quash the

same as illegal and unconstitutional.

4. Concededly, the fifth respondent as per his resolution No. 245, dated 07.11.2002 approved the building plan submitted by the Bishop of

Kanyakumari Diocese as a Power of Attorney Holder of CSI TA and pursuant to the same, the third respondent sent a notice to the Bishop to

appear in person on 30.6.2003 regarding extension of the Church Building. On the said hearing date, the petitioner, who was deputed by the

Bishop to attend the personal hearing, was informed not to proceed with the extension work as some Hindus had raised objections to the same.

When the petitioner started construction based on the approved plan, the local police restrained him from proceeding with the said construction, as

he did not obtain the permission of the third respondent. Meanwhile, the third respondent rejected the request of the petitioner by his proceedings

dated 20.11.2005 in D.Dis. No. (C3) 96001/2002. Aggrieved against the same, the petitioner has filed the above writ petition.

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, a Division Bench of this Court, while dealing with the freedom of conscience and the right freely to profess, practise and propagate

religion, by an order dated 14.7.2005 made in W.P. No. 5202 of 1998 (Mohamed Gani v. The Superintendent of Police, Dindigul District and

four Ors.), 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.

7. On a similar set of facts, when a construction of the church was objected by the District Collector under the pretext that there are no sufficient

number of Christians in the locality, this Court, applying the decision of the Division Bench of this Court referred to above, and in view of the

Fundamental Right guaranteed under Article 25(1) of the Constitution of India, by the order, dated 3.8.2005 made in W.P. Nos. 16804 of 2003

and 21187 of 2005, (Albert Raj v. District Collector and Ors.) permitted the construction of the Church, by holding as follows:-

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.

8. Since the question raised in the above writ petition is also with reference to the interference by the respondents with the right of the petitioner to

extend the construction of the Church, applying the ratio laid down in the above decisions and finding it difficult to sustain any interference by the

respondents with the right of the petitioner in pursuing with the extension work, I hold that the impugned order, dated 20.11.2005 passed by the

third respondent is illegal, unconstitutional and is therefore liable to be quashed.

9. Accordingly, the writ petition is allowed and the impugned order, dated 20.11.2005 passed by the third respondent is quashed. Consequently,

the connected miscellaneous petition is closed. No costs.