

(2018) 01 MAD CK 0421
In the Madras High Court
Case No : 1212 of 2018

C.Ganesan

APPELLANT

Vs

The Superintendent of Police & Anr.

RESPONDENT

Date of Decision : 23-01-2018

Acts Referred:

Citation : (2018) 01 MAD CK 0421

Hon'ble Judges : P.Rajamanickam

Bench : Single Bench

Advocate : G.Karnan, N.Shanmugaselvam

Final Decision : Disposed Off

Judgement

1. This writ petition has been filed to quash the order passed by the second respondent dated 21.01.2018 and direct the respondents to grant

permission to conduct Innisai Kacheri from 10.00 p.m to 3.00 a.m on 23.01.2018 in the eve of Temple Kodai Festival in Arulmigu Ramalinga

Udanurai Sreee Sivakamiammal, Sree Nambi Singaperumal temple situates in Panagudi Village, Radhapuram Taluk, Tirunelveli District.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. The learned counsel appearing for the petitioner has submitted that the Executive Officer of the Hindu Religious and Charitable Endowments

Department has passed an order granting permission to Adi Dravidar community people to celebrate the function in the said temple on 23.01.2018

and on behalf of the said community, the petitioner has submitted a representation before the respondents and since no order has been passed on

the said representation, the petitioner has filed W.P.(MD).No.1032 of 2018 before

this Court. He further submitted that this court, by an order dated 19.01.2018, directed the petitioner to submit a fresh representation with relevant documents before the second respondent on or before 21.01.2018 and if such representation is made by the petitioner, the second respondent has to consider the said representation and also enquire the Executive Officer of the Hindu Religious and Charitable Endowments Department of the concerned temple and pass appropriate orders on or before 22.01.2018. He further submitted that as per the aforesaid directions issued by this Court, the petitioner has submitted a representation to the respondents on 20.01.2018, seeking permission for conducting Innisai Kacheri programme on 23.01.2018 from 10.00 p.m to 03.00 a.m. He further submitted that the second respondent, citing the judgment of the Honourable Supreme Court of India reported in Church of God (Full Gospel) in India Vs K.K.R.Magestic Colony Welfare Association and Others, [(2000) 7 SCC 282] and also Rule 5 of Noise Pollution (Regulation and Control), Rules, 2000, granted permission to the petitioner to complete all the programmes before 10.00 p.m. He further submitted that this Court has already granted permission in W.P.(MD).No.1009 of 2018, dated 19.01.2018, for celebrating the function even beyond 10.00 p.m on 22.01.2018 for another person namely A.Sundaram and hence, the same kind of order may also be passed in this petition also.

4. The learned Additional Government Pleader has submitted that after passing of the order by this Court in W.P. (MD).No.1009 of 2018, dated 19.01.2018, it was brought to the knowledge of the second respondent that the Honourable Supreme Court of India in Church of God (Full Gospel) in India Vs K.K.R.Magestic Colony Welfare Association and Others (supra), has held that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00 a.m and hence, the aforesaid impugned order has been passed.

5. The Honourable Supreme Court of India in Church of God (Full Gospel) in India Vs K.K.R.Magestic Colony Welfare Association and Others (supra) has held that rules prescribing reasonable restrictions including the Rules for the use of loud speakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and

Control) Rules, 2000 are required to be enforced. The aforesaid decision was not brought to the knowledge of this court while passing order in W.P.(MD).No.1009 of 2018. Hence, the petitioner cannot rely upon the order passed in W.P.(MD).No.1009 of 2018.

6. Since in the aforesaid decision, the Honourable Supreme Court has directed the authorities to enforce Noise Pollution (Regulation and Control)

Rules, 2000, it is relevant to refer Rule 5 of the said Rules, which reads thus:-

5.Restrictions on the use of loudspeakers/public address system:- (1) A loudspeaker or a public address system shall not be used except after

obtaining written permission from the authority.

(2)A loudspeaker or a public address system shall not be used at night (between 10.00 p.m to 06.00 a.m except) in closed premises for

communication within, e.g. Auditoria, conference rooms, community halls and banquet halls.

7. From the reading of the aforesaid provision, it is clear that a loud speaker or a public address system shall not be used without getting written

permission from the authority. It is also clear that a loud speaker or a public address system shall not be used at night between 10.00 p.m to 06.00

a.m except in closed premises for communication within, e.g. auditoria, conference rooms, community halls and banquet halls. But the second

respondent has totally banned the programmes after 10.00 p.m without giving an opportunity to the petitioner to find a place (closed premises) to

conduct the Innisai Kacheri after 10.00 p.m. Hence, the impugned order passed by the second respondent, dated 21.01.2018 is quashed.

Therefore, if the petitioner wants to conduct the Innisai Kacheri by using a loud speaker or a public address system in an open place, he has to

finish the said programme before 10.00 p.m or if he wants to extend the said programme beyond 10.00 p.m, then, he can conduct the said

programme in the closed premises, after getting necessary permission from the second respondent.

8. However, in this case, considering the paucity of time, the petitioner is directed to choose the place (closed premises) for conducting the Innisai

Kacheri on 23.01.2018 beyond 10.00 p.m and inform the same to the second respondent before 9.30 p.m and thereafter, he can conduct the

programme. The second respondent has to give proper protection for the said

programme.

9. With the aforesaid observation, this writ petition is disposed of. No costs.