

(2022) 08 KAR CK 0027

In the Karnataka High Court

Case No : Writ Petition No. 10473 Of 2022 (GM-RES-PIL)

Chandrashekar R

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 22-08-2022

Acts Referred:

Karnataka Police Act, 1963 — Section 37
Constitution Of India, 1949 — Article 25, 25(1), 26

Citation : (2022) 08 KAR CK 0027

Hon'ble Judges : Alok Aradhe, J;S Vishwajith Shetty, J

Bench : Division Bench

Advocate : Manjunath S Halawar, S.S. Mahendra

Final Decision : Disposed Of

Judgement

Alok Aradhe, J

Mr.Manjunath S.Halawar, learned counsel for the petitioner.

Mr.S.S.Mahendra, learned Additional Government Advocate for the respondents.

1. The petitioner, who claims to be a resident of Bengaluru, has filed this petition seeking the following reliefs:

“(i) Issue a Writ in the nature of Mandamus or any other Writ or Order, Directing the Respondent No.1 to 4 to stop the mosques or masjids in the State of Karnataka for using the objectionable words through loudspeakers while calling Azan or Adhan prayer 5 times in a day throughout the 365 days in a year.

(ii) Issue a Writ in the nature of Mandamus or any other writ directing to take step in order to seizure and confiscation of loudspeakers, amplifiers and such other equipment's installed in mosques/ masjids for using the objectionable words while calling Azan or Adhan prayer in the State of Karnataka.”

2. The facts leading to filing of this petition, briefly stated are that Azan or Adhan

prayers are being offered through loudspeakers and public address systems five times a day between 6.00 a.m to 10.00 p.m throughout the year from the mosques or masjids in the State of Karnataka.

3. The grievance of the petitioner as averred in the writ petition is that calling of Azan or Adhan, though is an essential religious practice of muslims, however, the contents of the Azan or Adhan are hurting the believers of other religious faiths.

4. Learned counsel for the petitioner submitted that the contents of the Azan or Adhan hurts the sentiments of believers of other faiths and, therefore, a writ of mandamus be issued to respondent Nos.1 to 4 to stop the mosques/masjids in the State of Karnataka from using the contents through the loudspeakers or public address systems while calling Azan or Adhan prayers five times a day.

5. We have considered the submissions made by learned counsel for the petitioner.

6. Articles 25 and 26 of the Constitution of India embodies the principle of religious toleration which is a characteristic of Indian Civilization. Article 25(1) of the Constitution of India confers a fundamental right on all persons to freely profess, practice and propagate their own religion. However, the aforesaid right is not an absolute right, but is subject to restrictions on the grounds of public order, morality and health, as well as subject to other provisions in Part III of the Constitution of India.

7. Undoubtedly, the petitioner as well as the believers of other faiths have the right to practice their religion. Azan or Adhan is a call to offer prayers. However, the contention that the contents of Azan or Adhan violate the fundamental right guaranteed to the petitioner as well as the persons of other faith cannot be accepted. It is also pertinent to note that it is not the case of the petitioner himself that his fundamental right guaranteed under Article 25 of the Constitution of India is being infringed in any manner by calling of Azan or Adhan through loudspeakers or public address systems.

8. However, before parting with the case, it is worth mentioning that the aforesaid right to practice religion is not an absolute right but, is subject to restrictions on the grounds of public order, morality and health, as well as other rights guaranteed in Part III of the Constitution.

9. The use of loudspeakers, public address systems and sound producing instruments is governed by the Noise Pollution (Regulation and Control) Rules, 2000 read with Section 37 of the Karnataka Police Act, 1963.

10. Respondent Nos.1 to 4 are, therefore, directed to ensure that the loudspeakers, public address systems, sound producing instruments and other musical instruments shall not be permitted to be used above permissible decibel during night from 10.00 p.m to 6.00 a.m.

11. A Division Bench of this Court, by an order dated 17.06.2022 passed in Writ

Petition No.4574/2021 has directed respondent Nos.1 to 4 herein to carry out a drive to prevent the misuse of loudspeakers and public address systems. The respondent Nos.1 to 4 shall follow the directions issued by this Court by an order dated 17.06.2022 passed in Writ Petition No.4574/2021 and shall file a compliance report before this Court within a period of eight weeks.

With the aforesaid directions, the petition is disposed of.