

(2002) 07 MAD CK 0120

In the Madras High Court

Case No : Writ Petition No. 29848 and W.P.M.P. No. 43633 of 2002

Dr. C.N. Deivanayaagam, Secretary General, Reception
Committee, Founding conference World Tamil Confederation,
Chennai

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 19-07-2002

Acts Referred:

Constitution of India, 1950 — Article 19
Madras City Police Act, 1888 — Section 41
Prevention of Terrorism Act, 2002 — Section 21(2)

Citation : (2002) 07 MAD CK 0120

Hon'ble Judges : V. Kanagaraj, J

Bench : Single Bench

Advocate : K. Chandru, for D. Hariparanthaman, for the Appellant; R. Muthu Kumarasamy, Addl. Advocate General for D. Krishnakumar, Spl. Govt. Pleader, for the Respondent

Final Decision : Allowed

Judgement

V. Kanagaraj, J.—Writ petition praying to issue a writ of certiorarified mandamus calling for the records relating to the order dated 17.7.2002 passed by the second respondent in reference kNo.C.3(1)/41/5000d2/2002 seeking to refuse permission for the petitioner to the World Tamil Confederation on 20th and 21st July, 2002 at Don Basco Higher secondary School, Egmore, Chennai-8 and consequently permit the petitioner to hold the conference as arranged.

2. In the affidavit filed in support of the writ petition, the petitioner besides giving an anecdote of his brilliant educational and professional career and his lectures delivered in many parts of leading Foreign countries, would also state that on 25.5.2002 he chaired a meeting of Tamil scholars in which it was resolved to organize a World Tamil Confederation and to have the inaugural Conference at Chennai on 20th and 21st July, 2002.

3. The petitioner would further submit that in the said meeting it was decided to hold the inaugural Conference of the Confederation at the Indoor Stadium of Don Basco Higher Secondary School, Egmore, Chennai-8 and they have also sent invitations besides giving wide publicity through various electronic and T.V. medias, magazines, newspapers, hand bills and wall writings.

4. The petitioner would further narrate that various scholars and experts in various fields from various countries all over the world including the Hon'ble Ministers, Members of Parliament (from Sri Lanka), religious leaders and heads of the prominent Adheenams have consented to participate in the function organized to promote and develop Tamil language, culture and heritage of Tamil people all over the world and it has nothing to do with any political party or politician; that elaborate arrangements have been made spending enormous amount of money; that with abundant caution they applied for permission with the second respondent on 9.7.2002 along with the consent letter given by the school management and of late on 17.7.2002 they sent a show cause notice as to why permission should not be refused for holding the World Tamil Confederation inaugural functions as it has been arranged by the petitioner; that permission was sought to be refused on ground that one of the speakers in the Conference, P.Nedumaran, who delivered objectionable speeches in the past in support of LTTE, a banned organization in India, and that there might be a law and order problem; that in spite of proper explanations offered, the second respondent, without even a personal hearing for the petitioner to be heard on the subject, by order dated 18.7.2002, passed orders refusing permission for the World Tamil Confederation inaugural function to be held in the manner extracted supra and hence the writ petition.

5. Today, when the above writ petition was taken up for consideration in the presence of the learned Senior counsel for the petitioner and the Additional Advocate General taking notice on behalf of the respondents, the learned Senior Counsel for the petitioner having gone into various aspects concerned with the subject, would put it in a nutshell that only on account of participation of Mr.P.Nedumaran it is seriously objected to on the part of the second respondent on ground that he is a supporter of LTTE and he might cause objectionable speech in support of the banned organization, the LTTE, which would impair the safety and security of the country. The learned senior counsel would phoo-phoo the apprehension of the second respondent as unfounded further ascertaining that it is a conference of Tamil Scholars in promotion of the Tamil language and culture and therefore quoting some past utterances that one of the participants alleged to have been made, no motives could be attributed to the laudable objectives sought to be achieved and under such pretext the respondents cannot deny the fundamental rights of the citizens enshrined under the Constitution of India.

6. The learned Senior Counsel would also cite three decided cases, the first one delivered in NEDUMARAN, P. V. STATE OF TAMIL NADU AND OTHERS reported in

1999 1 L W (CrI) 73 the second judgment delivered in NEDUMARAN,P. V. STATES OF T.N. AND OTHERS reported in 2000 Writ Law Reporter 205 and the third one is an unreported Order passed in W.P.Nos.8459 and 8460 of 2000 dated 16.7.2001, all by learned single Judges of this Court.

7. It is relevant to consider that all the above three orders have been passed only in matters of P.Nedumaran being the petitioner therein, himself either seeking permission to hold a conference or praying to forbear the Government and its police officials from interfering with his propaganda or to quash the order refusing to permit him for conducting conference on the issue of Ealam Tamils at Chidambaram and reading out the relevant portions of the judgments, the learned senior counsel would exhort that no such ban or restriction could be placed by police particularly invoking section 41 of the Madras City Police Act under which, power has to be exercised with great care and caution particularly since being a pre-constitution enactment and the powers conferred on the authorities at a time when the country was under the Foreign yoke when suppression of dissent was considered to be a legitimate policy of the State and the same cannot be exercised in the present situation.

8. The learned senior counsel would ultimately end up saying that in all the above cases, permission has been accorded as sought for on the part of even Mr.P.Nedumaran either permitting him to hold the Conference or forbearing the authorities from interfering with such of his inviolable rights thus ascertaining fundamental rights of the Hon"ble citizens guaranteed under Article 19 of the Constitution of India.

9. On the part of the learned Additional Advocate General, it would be pointed out that those orders cited from those cases on behalf of the petitioner have been passed prior to the coming into being of the Prevention of Terrorism Act, 2002 and now the situation is different and serious, since the acts perpetrated on the part of Mr.P.Nedumaran as feared and apprehended by the second respondent in para No.5 of his order dated 18.7.2002 being so serious, cannot be treated as the fundamental right of a citizen particularly in view of the fact that LTTE is a banned organization in India and therefore would point out that in case such of those acts contemplated in Para No.5 of the order of the second respondent is attempted to be committed on the part of any of the participants in the Conference, it would jeopardise the interest of the State and the Nation as a whole which being in violation of the Constitution, Section 21(2)(a), (b) and (c) of the Prevention of Terrorism Act, 2002 would be attracted. The learned Additional Advocate General would end up justifying the order refusing permission to conduct the inaugural function of the petitioner Federation by the second respondent.

10. In consideration of the facts pleaded, having regard to the materials placed on record and upon hearing the learned senior counsel for the petitioner and the learned Additional Advocate General contra, what could be gathered is that the petitioner in his capacity as the Secretary of the General Reception Committee of

the founding Conference of the organization called `World Tamil Confederation" has come forward to file the above writ petition praying not only to quash the order dated 17.7.2002 passed by the second respondent refusing permission to conduct the inaugural conference of the Association, but also consequently to permit the petitioner to hold the conference as arranged on 20th and 21st of July, 2002 and to award costs.

11. Though only the show cause notice dated 17.7.2002 has been challenged in this writ petition, in fact an order itself has been passed refusing permission to conduct the said Conference as per the second respondent's order dated 18.7.2002 which would separately be brought to the notice of the Court by the petitioner and taking stock of the situation, it has become incumbent on the part of this Court to make such orders that are necessary in the warranting circumstances.

12. The sacred Constitution of India permits an individual citizen or group or Association to enjoy all freedoms, rights and members whether individually or in the form of Association, but without violation of any of the Articles of the Constitution or the prevailing Laws. The Law of the Land not only guarantees the fundamental rights of the citizens but also insists their duties and responsibilities towards not only preserving the sacred Constitution but to avoid any hurdle or obstacle placed in the onwards march of the Nation as a whole. The Constitution permits all reasonable enjoyment of the freedom of all and protects the inviolable rights of the citizens but forbids any act done in violation of the letter and spirit of the Constitutional provisions and such of those acts committed in excess than what is expected of in the circumstances by a citizen of ordinary sense and temper, what is widely known as reasonable restrictions. Needless to mention that the petitioner and those participants in the Inaugural Function of the World Tamil Confederation, so long as restrict themselves within the permissible limits of Law, the respondents have absolutely no right to interfere with such of the Constitutionally guaranteed rights of the honourable citizens, much less the members of the petitioner Association and the participants as well. But, when this dictum of law is in any manner infringed or violated, it will be actionable and such violation will not only suspend or decline the rights declared in favour of the citizens but will also arm the respondents to initiate such measures which are necessary in the circumstances of the case.

13. Since in the given case, excepting one of the invitees as the Speaker in the Inaugural Function of the petitioner Association, since no aspersions have been cast either with the motive of the Conference or the objectives sought to be achieved i.e. to promote the Tamil language and culture altogether, the second respondent has no right to refuse the permission as it has been done lock-stock and barrel, as per his order dated 18.7.2002, and hence the said order necessarily becomes liable to be quashed.

14. However, this Court hastens to observe that the fear and apprehension expressed in paragraph No.5 of the impugned order of refusal of permission

dated 18.7.2002 is of serious concern which can never be permitted to occur and it is upto the petitioner to issue such necessary instructions to its invitees not to exceed the permissible limits much less indulging in such speeches or expressions or publication of books or literature, pamphlets etc. so as to lead the situation to go out of control. In such event, any such violation as feared in Paragraph No.5 of the impugned order dated 18.7.2002 takes place, it is open for the respondents to initiate such measures in accordance with and in the manner required by law.

In result,

(i) subject to the above observations in the preceding paragraph, the above writ petition is allowed.

(ii) The impugned order dated 18.7.2002 made in Reference No.C.3(1)/41/50002/2002-1 by the second respondent is hereby quashed saving the interest and concern expressed in para. 5 of the same.

However, in the circumstances of the case, there shall be no order as to costs. Consequently, W.P.M.P.No.43633 of 2002 is closed.