

(2006) 07 MAD CK 0235

In the Madras High Court

Case No : W.P (MD) No. 5367 of 2006 in M.P. (MD) No. 1 of 2006

Dr. Parthasarathy

APPELLANT

Vs

The State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 05-07-2006

Acts Referred:

Constitution of India, 1950 — Article 14, 21

Citation : (2006) 07 MAD CK 0235

Hon'ble Judges : P. Murgesen, J; F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : T. Lajapathi Roy for Ms. Sudha Ramalingam, for the Appellant; R. Janakiramulu, Special Government Pleader, for the Respondent

Judgement

F.M. Ibrahim Kalifulla, J.—The petitioner is a pro bono publico. The petitioner seeks for the issuance of a Writ of Mandamus to direct the respondents to constitute a committee of their choice or the committee consisting some or all the members mentioned earlier to be the "Observer Committee" to be present in the village of Kandadevi on 9.7.2006, the day of car festival of Swarnamoortheswarar temple, make an observation and to submit a report to this Court as to whether the administration has made all the arrangements so as to ensure the participation of all the people, notwithstanding their community or caste background, In this context, Mr. T. Lajapathi Roy, learned counsel appearing for the petitioner drew our attention to the earlier orders of the First Bench of this Court dated 6.7.1998 in W.M.P. No. 14132 of 1998 in W.P.1 No.9235 of 1998 and dated 16.6.2005 passed in W.P.M.P.Nos.21036 and 21388 of 2005 in W.P. No. 9235 of 1998 and contended that irrespective of the above orders only few from the SC and ST communities were alone permitted to pull the car on the car festival day in the previous year.

2. We heard the learned Special Government Pleader, who on instructions from the District Administration submits before us that the temple festival has already commenced and that by stint of cooperation from all persons, the celebrations

are being held in a highly peaceful atmosphere and therefore, the District Administration will be able to maintain the very same tempo till the car festival is concluded. Learned Special Government Pleader therefore contended that the District Administration would take the responsibility of ensuring equal participation of all concerned in the Kandadevi festival and in particular the pulling of car on 9.7.2006.

3. Having taken note of the respective submissions, we only wish to record the earlier order of this Court dated 16.6.2005 passed in W.P.M.P.Nos.21036 and 21388 of 2005 in W.P. No. 9235 of 1998, which would throw sufficient light on the issue now raised and the compliance of the said order will be sufficient for the District Administration as far as the peaceful celebration of the festival is concerned. Paragraphs 13 to 17 of the order of the First Bench dated 16.6.2005 is relevant for our purpose, which we wish to extract for better appreciation. The same reads as under.

13. It is alleged that some representatives of the Nattar community claim that there is a custom that members belonging to the Scheduled Caste and Scheduled Tribe communities have no right to pull the temple car. Although this contention is denied, yet even assuming that there is such a custom, it will be wholly illegal and unconstitutional, as it is against the right to a life of dignity envisaged in Article 21 of the Constitution. After the promulgation of the Constitution, all customs which are in violation of Articles 14, 21 and other constitutional provisions are null and void, and have to be disregarded, since the Constitution is the fundamental law of the land.

14. We, therefore, direct the District Collector cum District Magistrate, Sivaganga District, to ensure strict compliance of the order of this Court dated 6.7.1998 in W.M.P. No. 14132 of 1998 in W.P. No. 9235 of 1998 as well as the order of the Commissioner of the H.R. & C.E. Department dated 26.6.1999, both in letter and spirit. We make it clear that the District Collector cum District Magistrate will be personally held responsible if the order we are passing today is not complied with. The District Collector cum District Magistrate must act fairly to all castes and communities and ensure that everyone is given equal respect in this Car Festival and even otherwise. The District Collector cum District Magistrate will submit a report to this Court about the conducting of the Car Festival and as to whether our orders have been complied with in letter and spirit. This Court will continue monitoring the matter even in future.

15. We were informed by Ms. Vaigai that in the past only about ten selected Scheduled Caste members were permitted as token measure, to participate in the Car pulling. This fact is denied by the learned Advocate General. However, we clarify that the participation of S.C/S.T. Members in the Temple Car Festival will not merely be token.

16. We, however, make it clear that the District Administration will have the right to regulate the traffic on the roads/streets, and take other regulatory measures,

so that there is no stampede and the Festival is held peacefully, but such regulations must not be done on a caste basis.

17. Learned Advocate General raised an apprehension that there could be a law and order problem. In our opinion, over 99 people of all castes, communities, ethnic groups, etc., are good and peace loving people and it is only 1% or even less who are mischievous. Hence, we see no reason as to why there should be any law and order problem, then the Administration should certainly deal with them with a heavy hand, irrespective of caste, creed or colour. This order will hold good not only for the festival celebrated this year, but also for the future years to come.

4. Since the First Bench made it clear that whatever directions issued will hold good not only for the year 2005, but also for the future years to come, we only direct the District Administration to scrupulously adhere to the directions contained in the above referred to paragraphs and ensure that every one who wish to participate in the festival, including the pulling of car on 9.7.2006, shall be allowed to participate to the fullest satisfaction irrespective of the caste, creed or religion. In the light of the above said directions contained in the earlier orders, which we have reiterated in this order, we are of the view that the prayer of the petitioner for constituting any Observer Committee is not required and we accordingly dispose of the writ petition with the above observations mentioned in the earlier paragraphs. Consequently, connected miscellaneous petition is closed. No costs.