
(2013) 09 MAD CK 0145

In the Madras High Court

Case No : Writ Petition (MD) No. 14728 of 2013 and M.P. (MD) No. 1 of 2013

K. Alagarsamy

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 06-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0145

Hon'ble Judges : M. Venugopal, J;M. Jaichandren, J

Bench : Division Bench

Advocate : P. Rathinam, for the Appellant; C. Ramachandran, Senior Central Government Standing Counsel for Respondents 1 and 2 Mr. K. Chellapandiyan, Additional Advocate General assisted by Mr. M. Govindan for Respondents 3 to 8, for the Respondent

Judgement

M. Jaichandren, J.—Heard the learned counsel appearing on behalf of the petitioner, as well as the learned counsels appearing on behalf of the respondents. Mr. P. Rathinam, the learned counsel appearing on behalf of the petitioner, had submitted that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to conduct "Thiyagi Immanuel Sekaran Memorial Day", on the 11th of September, every year, as a "Caste Abolition Day", at Paramakudi, Ramanathapuram District.

2. The learned counsel had stated that the petitioner belongs to Devendrakula Velalar community, known as Pallar Community in the State of Tamilnadu. It is a suppressed and marginalized community in the State of Tamilnadu and it has been classified as a Scheduled Caste Community. The people belonging to the said community are sizable in number and they are residing in the various Districts in the state of Tamilnadu. Thiyagi Immanuel Sekaran, who belongs to the said community, was born on 09.10.1924. He was a freedom fighter. He took part in the "Quit India Movement" in the year, 1942, at the age of eighteen. Due to his participation of the "Quit India Movement", he had been jailed by the British Regime, which was ruling India, at that time.

3. The learned counsel had also stated that Thiyagi Immanuel Sekaran had also worked in the Indian Army, as a Hawaldar. Even during his student days, he had participated in the Indian Independence Struggle and he had started an organization for uplifting the people of the oppressed and suppressed community to which he belonged. He had also participated in the Movement for the removal of racism, caste indignity of the suppressed people and worked for the socio-economic development. While so, he was killed by certain anti-social elements, on 11.09.1957. Thiru. Kamarajar, the then Chief Minister of Tamilnadu and Thiru. Jagjeevanram, the then Union Minister and a large number of leading political leaders at that time irrespective of their caste and community participated in his funeral procession. The Government of India had recognized his struggle for "Equality" amongst the various sections of the society had released a postal stamp, in his honour, on his birth anniversary, on 09.10.2010.

4. The learned counsel had further stated that body of Thiyagi Immanuel Sekaran is buried, at Paramakudi, in Ramanathapuram District. Every year, on the 11th of September, a large number of people, belonging to various communities, would assemble at Paramakudi, to pay respects to the great leader, Thiyagi Immanuel Sekaran. A number of political leaders and other persons from the various districts and a large number of people would assemble, at Paramakudi, on the 11th September every year. However, the District Administration had not been in a position to handle the security arrangements, properly. Many members of the Legislative Assembly, Ministers, Leaders of various Communities, irrespective of their caste and community, and a large number of leaders of national and regional political parties would also gather, at Paramakudi, to pay respects to Thiyagi Immanuel Sekaran.

5. The learned counsel had also submitted that during such gathering of large number of persons, during the earlier years, certain untoward incidents had taken place, resulting in the loss of innocent lives and destruction of properties. Therefore, it would be proper for the Government of Tamilnadu to celebrate Thiyagi Immanuel Sekaran Memorial Day as "Caste Abolition Day" like the other similar functions held for Thiyagi Ondiveeran, Thiyagi Poolithevan, Alagu Muthukone, Theivathirumanganar Muthuramalingath Thevar, Thiyagiyargal Maruthu Sagotharargal, Kapalotiya Tamilar Thiyagi Va.Vu.Chidambaranar, Thiyagi Veerapandiya kattapommon and other freedom fighters.

6. The learned counsel appearing for the petitioner had also stated that detailed representations had also been made to the respondents and certain other officials of the Governments concerned, to provide adequate police protection during the function to be held on the 9th September, 2013, in respect of Thiyagi Immanuel Sekaran Memorial Day, at Paramakudi, in Ramanathapuram District.

7. He had also stated that requests have been made to the authorities of the State and Central Governments not to impose stringent restrictions on the movement of vehicles especially the hired vehicles that would be used by the persons for reaching Paramakudi, for celebrating Thiyagi Immanuel Sekaran

Memorial Day. He had expressed his concern that adequate arrangements may not be made by the State Government for conducting the function in a smooth and peaceful manner. Therefore, he had prayed that this Court may be pleased to issue certain directions to the respondents to provide sufficient police protection so that innocent lives and valuable properties are not lost or damaged during the celebrations, to be held on the 11th of September, 2013, at Paramakudi, Ramanathapuram District.

8. Mr. C. Ramachandran, learned Senior Central Government Standing Counsel appeared on behalf of the respondents 1 and 2 and had stated that necessary arrangements would be made by the authorities belonging to the State Government, during the Thiyagi Immanuel Sekaran Memorial Day celebrations to be held on the 11th of September, 2013.

9. A detailed counter affidavit, dated 06.09.2013, had been filed, on behalf of the sixth respondent, giving the details of the arrangements that would be made during the Thiyagi Immanuel Sekaran Memorial Day celebrations, on 11.09.2013. Details have also been given, with regard to the incidents that had taken place, on 11.09.2011. It had also been stated that criminal proceedings had been initiated against those who had involved in unlawful activities, at that time.

10. It had also been stated that adequate police deployment would be made, on 11.09.2013, to ensure public order, during the celebrations. It had also been stated that, on 27.08.2013 and 04.09.2013, the District Collector, Ramanathapuram District, had conducted a co-ordination meeting with the Government officials, local leaders and the organizers of the Immanuel Sekaran Memorial Day Function and had passed a resolution, in C2.55960/2013, dated 04.09.2013, and had discussed in detail, the steps to be taken for the smooth conduct of the Memorial Day function.

11. It had also been stated that the inflow of hired vehicles from the other districts of the State of Tamil Nadu would be prohibited. The volunteers and participants coming from the other districts, except from the District of Ramanathapuram, may use public transport or private vehicles. Important State leaders would be allowed in a convoy of vehicles, not exceeding three in number. Certain other restrictions have also been imposed regarding the display of banners, flex boards, hoardings and posters, to ensure that there are no provocative materials displayed in public, in violation of Tamilnadu Public Places (Prevention of Disfigurement) Act.

12. It had also been stated that no procession should be taken out in violation of the restrictions imposed. Movements of persons and vehicles would be permitted only through the approved routes to reach the venue and to return from the said place. Time slots would be fixed for various groups and leaders for visiting the venue. The other restrictions, as found necessary, would be imposed by the District administration, after further assessment of the situation prevailing at the relevant point of time.

13. It had also been stated that the writ petition in W.P. (MD) No. 14415/2013, filed before a Division Bench of this Court, with a prayer to quash the prohibitory order issued by the District Collector, Tirunelveli, prohibiting the usage of hired vehicles, on Poolithevan Birth Day function, on 01.09.2013, at Nerkattumseval, Tirunelveli, had been dismissed, on 30.08.2013.

14. At this stage of the hearing of the writ petition, Mr. K. Chellapandiyan, the learned Additional Advocate General, appearing on behalf of the respondents 3 to 8, had placed before this Court a note giving the details of the arrangements that would be made during the celebrations to be held, on 11.09.2013, at Paramakudi, Ramanathapuram District. The said note reads as follows:

The death anniversary of Immanuel Sekaran is observed on 11th September every year. During the last few years, a crowd of about 20,000 to 30,000 has been assembling at Paramakudi in connection with this organized by various dalit associations. Last year, approximately, 2400 vehicles carried volunteers for this anniversary. Every year, there have been incidents of stone pelting and other disturbances, resulting in the police having to use force, once in 2009 and again in 2011.

This type of mass mobilization by mustering volunteers from different places and transporting them to centres where such anniversaries or other observances are held, has been a feature not only of Immanuel Sekaran's death anniversary but also for many other events like Perumbidugu Mutharaiyar birthday function at Trichy, Veeran Azhagumuthukone function at Kattalankulam village in Thoothukudi district, Kattabomman Vizha in Thoothukudi District, Poolithevan birth anniversary at Nerkattumseval in Tirunelveli District and Ondiveeran death anniversary at Nerkattumseval and Maruthupandiyar anniversary in Tiruppathur and Kalayarkovil in Sivagangai district and Thevar Jayanthi at Pasumpon.

When volunteers, especially those travelling in vehicles pass through villages inhabited by people of other castes, there have been often incidents involving clashes between rival groups or damage to properties and incidents of arson. These volunteers and participants often behave in an exuberant manner. During the Marudhupandiar function last year, one group proceeding for the function stabbed a young Sub-Inspector to death.

Although conditions are imposed that vehicles should not carry volunteers on roof top, provocative slogans should not be shouted, inflammatory writings should not be displayed, fire crackers should not be burst, loudspeakers should not be used etc., very often these conditions are breached resulting in serious law and order problems and disturbance of normalcy, as hundreds of vehicles from different parts of the state move towards the venue. The Government has even laid new roads and bye-passes to facilitate smooth movement of volunteers and participants minimizing the scope for confrontation with others and the police make elaborate arrangements, lay down the rules to be followed and prohibit movement through certain sensitive stretches, yet the participants tend

to violate the restrictions. During Immanuel Sekaran's anniversary in 2012, some people strayed from the prescribed route, entering an area of different community resulting in buildup of tension and confrontation. Similarly, during Thevar Guru Pooja, some participants strayed into prohibited routes, resulting in the murder of three persons, who deviated from the approved routes in this manner. In a gruesome incident, a TATA Sumo carrying over 20 volunteers returning from Pasumpon during the Thevar Guru Pooja was attacked with petrol bombs, resulting in the tragic death of seven persons and serious injuries to 13 people.

In the light of this experience, during this year, certain restrictions were imposed during Perumbidugu Mutharaiyar birthday celebrations at Trichy, curtailing the movement of big crowds. In 2012, participants had indulged in extensive violence and caused damage to public and private property, paralysing life in the town and incidentally triggering a confrontation between Muslims and Mutharaiyars. In the wake of imposition of restrictions during this year about use of hired transport vehicles for mobilizing people, the crowd was reduced and the number of vehicles was also minimized and the entire function went off peacefully without any untoward incident. Similarly, during Ondiveeran death anniversary which witnessed trouble during 2011 precipitating caste tension, prohibitory orders were passed under 144 Cr.P.C. prohibiting entry of tourist motor cabs, tourist maxi cabs, all India tourist motor cabs, omni buses and other tourist vehicles including stage carriages with temporary or special permits, from outside the district. This had a positive impact and the crowd was manageable and the entire event passed off without any violence whatsoever.

In the background of the past incidents and in the light of experiences earned during Perumbidugu Mutharaiyar function Veeran Azhagumuthukone function, Kattabomman Vizha, Ondiveeran death anniversary, Poolithevan birth anniversary this year, it has been proposed that in future, during the observance of such events, inflow of hired vehicles from outside districts will not be allowed and entry of tourist motor cabs, tourist maxi cabs, all India tourist motor cabs, omni buses and other tourist vehicles including stage carriages with temporary or special permits, except regular stage carriages and tourist vehicles, will be prevented. However, regular stage carriages, tourist vehicles plying to other places via function place, goods carriages, vehicles with students from local schools and colleges, vehicles carrying essential commodities will be exempted from the ban. It is expected that this will minimize the crowd and make it manageable, preventing disturbance of public tranquility and normal life.

Volunteers and participants from other districts will however not be altogether denied entry into the district for attending the function. They may use public transport or private vehicles. Important State leaders are proposed to be allowed in a convoy not exceeding three vehicles per leader. Some other restrictions that are proposed are:

1. Restrictions on display of banners, flex boards, hoardings and posters to

ensure that there is no provocative material publicly or violation of the Tamil Nadu Public Places (Prevention of Disfigurement) Act.

2. No processions should be taken out.

3. Only approved routes for movement to and from the venue should be followed.

4. Time slot will be fixed for important groups or leaders and this time slot should be adhered to.

5. Other restricts as may be found necessary may be imposed by the District administration after further assessment.

The intention of the administration is not to stop the function or to obstruct people from participating. Such restrictions as are necessary for maintenance of peace and prevention of loss of life as witnessed in the past will be resorted to.

In this connection, excerpts from the judgment of Honourable Mr. Justice N. Kirubakaran in Criminal OP (MD) No. 12925 of 2012 dated 30.08.2012 from the Madurai Bench of the Madras High Court on a petition filed by S. Raja Maravan, Secretary, Tamil Nadu State Youth Wing, Mamannar Poolithevar Pasarai objecting to certain restrictions imposed last year, are reproduced below: "It is not necessary to visit the birth place of any leader to pay homage or to celebrate his/her birthday... One has to visit Porbandar in Gujarat to celebrate Mahatma Gandhi's birthday or Allahabad in Uttar Pradesh to celebrate Pandit Jawaharlal Nehru's birthday, if the intention of the petitioner is to be accepted...The birthday of Mamannar Poolithevar, who fought against the mighty British regime has to be celebrated. However, in the name of birthday celebration of such heroes, public peace and tranquility cannot be allowed to be disturbed, especially when the police, taking ground realities into consideration refused permission. It is seen that the Southern part of the State is often disturbed by communal tension and disturbance resulting in the loss of life and damage of properties... If really the petitioner wants to felicitate and honour the great Mamannar Poolithevar, he could do so at his place. He can also do social work, feed the poor and help orphanages/old age homes benefiting many deserving people. If done, it will be a befitting tribute to the memory of the great king".

As mentioned in the judgment of the Honourable High Court, people could observe the anniversaries at the respective places without having to go too far off districts in hired vehicles, travelling long distances. However, if they do desire to visit a specific venue where the function is being held, they may do so using public transport or personal vehicles. The District administration will render all necessary assistance in the smooth conduct of these functions meant to honour leaders or legendary figures held in veneration by different sections. But, at the same time, appropriate measures will be taken as necessary to maintain the law and order.

15. The learned Additional Advocate General had also submitted that all necessary steps would be taken by the authorities of the State Government and

the District Administration to ensure that the celebrations, to be held on 11.09.2013 relating to the Thiyagi Immanuel Sekaran Memorial Day, at Paramakudi, are held in smooth and peaceful manner without any untoward happenings. The authorities have also taken adequate measures to ensure the prevailing of law and order and communal harmony, during the celebrations. However, hired vehicles coming from the other districts, other than Ramanathapuram District, have been prohibited, for regulating the traffic and for the maintenance of peaceful conduct of the celebrations, as in the past years. Further, adequate public transport facilities would be provided for the use of the persons arriving at Paramakudi from other districts of the State of Tamil Nadu. Detailed bandobust arrangements have also been planned for the visit of State and National Leaders of various political parties and communities. Adequate police force would be provided to ensure that the function is held in a peaceful and orderly manner. Therefore, the apprehensions expressed by the petitioner incorrect.

16. The learned Additional Advocate General had also submitted that all steps would be taken to ensure the safety of persons and properties and to prevent untoward happenings during the celebrations. Proper and swift action would be taken to prevent unruly and antisocial elements from disturbing the peaceful celebrations based on the intelligence reports.

17. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and on a perusal of the records available, and in view of the note placed before this Court, by the learned Additional Advocate General, appearing on behalf of the respondents 3 to 8, we are of the view that adequate measures are being taken to ensure the peaceful conduct of the celebrations relating to Thiyagi Immanuel Sekaran Memorial Day, at Paramakudi, on 11.09.2013. The restrictions imposed by the State Authorities and the District Administration of Ramanathapuram District would ensure smooth flow of traffic and prevent untoward incidents during the celebrations.

18. It has also been noted that sufficient police personnel would be deployed to prevent any untoward incidents from taking place during the celebrations to be held, on 11.09.2013, at Paramakudi, in Ramanathapuram District. As such, we do not find the necessity for issuing further directions, in view of the arrangements proposed to be made, by the respondents 3 to 8, in view of the Thiyagi Immanuel Sekaran Memorial Day Celebrations, to be held on 11.09.2013, at Paramakudi, in Ramanathapuram District. Since no further orders are necessary, this Writ Petition stands closed, recording the note placed before this Court, by the learned Additional Advocate General and the averments made in the counter affidavit filed by the sixth respondent, dated 06.09.2013. No costs. Consequently, connected M.P. (MD) No. 1 of 2013 is closed.