
(2005) 10 MAD CK 0078
In the Madras High Court
Case No : Writ Petition No. 31923 of 2005

K. Santhil Kumar

APPELLANT

Vs

State of Tamil Nadu and Another

RESPONDENT

Date of Decision : 04-10-2005

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2006 Mad 71

Hon'ble Judges : P.D. Dinakaran, J;M. Thanikachalam, J

Bench : Division Bench

Advocate : R. Viduthalai and A.V. Bharathi, for the Appellant; N.R. Chandran, General assisted by D. Krishna Kumar and A.L. Somayajee, A.A.G. assisted by S. Venkatesh, for the Respondent

Judgement

P.D. Dinakaran, J.—The petitioner, a tax payer and recipient of Black Belt II in Karate and as such a person interested in sports and sports related activities, apprehending improper use of public property, namely the stadium known as Chennai Jawaharlal Nehru Stadium in the city of Chennai, owned by the Government of Tamil Nadu and in the care of the Sports Development Authority of Tamilnadu, by conducting Farmers Conference and launching Thamilaga Mudalaimaicharin Ullavar Paadugapappu Thittam on 5-10-2005, has filed the above public interest litigation seeking a writ of Mandamus to forbear the respondents from using or permitting the use of the Chennai Jawaharlal Nehru Stadium, Chennai for conducting the farmers Conference and Thamilaga Mudalaimaicharin Ullavar Paadugapappu Thittam on 5-10-2005 or any other date or for any other activity unrelated to sports and promotion and development of sports.

2. The Chennai Jawaharlal Nehru Stadium at Chennai, concededly, was constructed by spending several crores of rupees for conducting both Outdoor and indoor sports activities like football, hockey, etc. to meet the international standards. A plan of the stadium produced before us discloses that at the Centre

of the Stadium is a lawn or a ground which has a natural turf, which is surrounded by synthetic turfed athletic track in oval shape meant for athletic events. The entries to the synthetic turf as well as the natural turf are restricted and separated from the galleries by an open iron-meshed fence prohibiting cross entry into the isolated turfs, both the synthetic-turfed track and the natural turf, and separate gates right from the outer circumstance are provided for the entry to the lower and upper galleries for seating the audience.

3. The permissible usage of the Chennai Jawaharlal Nehru Stadium was fairly restricted by G.O.Ms. No. 2481, Department of Education, Science and Technology, dated 9-11-1982, which reads as follows :

GOVERNMENT OF TAMIL NADU ABSTRACT

Stadia -- Use for purposes other than Sports and Games -- Banned -- Orders issued.

= = = = Department of Education, Science and Technology

G.O.Ms. No. 2481 Dt. 9-11-1982 Read : From the Director of Sports and Youth Services, letter Rc. No. 5097/S3/81, dated 6-8-1981.

ORDER:

The Stadia, which are usually located in a Central place in the District Headquarters are now being put to use at times for purposes like Public meetings, Cultural Programmes, Exhibitions, etc. besides Sports activities. It has been brought to the notice of the Government that the use of the Stadia for purposes other than sports activities, not only interfere with the regular sports activities but is also not conducive to the development of Sports and Games. It has also been reported that because on such non-sports activities the playfields, tracks, etc. of the Stadia often get badly damaged demanding much effort and time to restore them to sports-worthy conditions and also involves in huge expenditure. The Director of Sports and Youth Services has therefore feels that in the interest of fostering Sports and Games there is imperative need to impose a total ban for the conduct of activities other than sports and Games in the Stadia, and requested the Government to issue suitable instruction to the District Collectors in this regard.

2. The Government after careful examination of the proposals of the Director of Sports and Youth Services, direct that the Stadia should not be spared for activities other than Sports and Games.

3. This orders will come to force with immediate effect.

Sd/- Commissioner & Secretary to Government.

(Emphasis supplied)

4. When special permission was granted for non-sports use of the Chennai Jawaharlal Nehru Stadium, Chennai despite the ban imposed vide G.O.Ms. No.

2481, Department of Education, Science and Technology, dated 9-11-1982 for the Platinum Jubilee Celebration of the Tamil Film Producers Association on 27 9 1998, in the presence of the then Hon"ble Chief Minister, Mr. M. Karunanidhi, the same was objected to by way of a Public Interest Litigation in W.P. No. 14302 of 1998, by the present Hon"ble Chief Minister, Ms. J. Jayalalitha, which ultimately was disposed of by the Apex Court by judgment dated 24-9-1998 in Civil Appeal No. 4990 of 1998, as reported in J. Jayalalitha Vs. Government of Tamil Nadu and Others, . The relevant portion of the said judgment reads as follows :

8. We put this suggestion to learned Counsel and after some persuasive discussion, looking to the sensitivity of the matter, they have agreed to such proposition. We must hasten to add that this solution came after it was made clear to the parties" counsel that in the face of the ban imposed, we saw no justification for letting out the Stadium to any person to conduct activities other than sports and games for activities subservient, ancillary, or consequential to these objects. The step we have devised is just to save embarrassment to all concerned because we are told that a lot of money has been spent in printing invitations to the invitees and as otherwise, this would lead to a lot of confusion to dignitaries who might have plans to come to participate in the celebration. We make it clear that the instance referred to in the letter of permission and the counter-affidavit filed by the respondents pertaining to a one-time user of the Stadium by the present appellant when a Chief Minister, would in no event be permitted to be quoted as a precedent or creating any right in favour of anyone to ever claim the Stadium for the purposes other than those mentioned earlier so long as the ban continues and we see no reason why the ban should not continue ever after. We are told that crores of rupees have gone to erect such a Stadium which meets international standards. It goes without saying that it was the taxpayers" money which went to build the Stadium. The taxpayers have a right to its being maintained as such and not to be treated as just any other public place for being hired at convenience by anyone. The justification sought here that the State would be richer by two lakhs of rupees as rental for the day does not convince us a wee bit. That understanding is totally alien to the purpose for which stadia are built and most of all, the present one.

9. Thus, for the afore-reasoning and understanding, we permit just this once, and not ever hereafter, partial use of the Stadium for holding the function confining the user only to the space occupied by the lower and upper galleries, totally isolating the area within the fence above described saying the turfs, natural as well as synthetic. To this extent, the impugned orders of the High Court as also the terms and conditions on which permission has been granted would stand modified. The order of this Court would rule over other orders.

(Emphasis supplied)

5. According to the petitioner, in the light of the observations of the organised in J. Jayalalitha Vs. Government of Tamil Nadu and Others, , the function dated on 27-9-1998 was shifted to the indoor stadium, honouring the expressed by the

Apex court, referred to above.

6.1 Relying on the decision of the Apex Court in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, that there is no justification for letting the Stadium to any person to conduct activities other than sports and games or activities subservient, ancillary, or consequential to these events and that such one time user of the Stadium would in no event be permitted to be quoted as a precedent or creating any right in favour of any one to ever claim the Stadium for the purposes other than those mentioned earlier so long as the ban continues, Mr. R. Viduthalai, learned senior counsel appearing for the petitioner vehemently objects the permission for conducting the farmers conference and launching *Thamilaga Mudalaimaicharin Ullavar Paadugapappu Thittam* on 5-10-2005 in Chennai Jawaharlal Nehru Stadium, Chennai.

6.2 Since an attempt is being made to justify the permission granted to conduct the Farmers Conference on 5-10-2005 at the Chennai Jawaharlal Nehru Stadium, relaxing the ban by G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005, copy of which was not made available to the petitioner to challenge the same, but was only furnished during the course of hearing of the writ petition, Mr. R. Viduthalai, learned senior counsel contends that the Government cannot annul the decision of the Apex Court in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, by passing G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005.

7.1 Per contra, Mr. N. R. Chandran, learned Advocate General, referring to the counter affidavit, contends that there is no public interest involved in the present writ petition and the petition is nothing but a political vendetta to create a stalemate in conducting the Farmers Conference and launching of several schemes for the agriculturists by the Government on 5-10-2005. In other words, the petitioner has got a hidden politically motivated agenda and therefore, the writ petition deserves no consideration.

7.2 It is further contended that the permission granted in the year 1998 and objected to by the present Hon'ble Chief Minister, Ms. J. Jayalalitha, which is the subject matter in the decision reported in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, is distinguishable as the said permission was granted to a private organisation, namely Tamil Film Producers Association, whereas the Government now proposes to use the stadium for multi-purpose activities to be held on 5-10-2005, namely (i) to conduct Rural Athletic Sports Meet for the rural folk in order to bring out the talents among the rural people; (ii) to conduct a cultural programme as a part and parcel of the Rural Athletic Sports Meet for the rural folk; (iii) to conduct Farmers Conference; (iv) to launch *Thamilaga Mudalaimaicharin Ullavar Paadugapappu Thittam*; and (v) to conduct exhibition in the Indoor Stadium with reference to several agricultural schemes and technologies, and therefore, the objection made by the present Hon'ble Chief Minister, Ms. J. Jayalalitha in the year 1998 for granting permission to the private organisation, namely the Tamil Film Producers Association cannot be equated

with that of the petitioner's objection to the Government's usage of the stadium for the above mentioned purposes which are fully justified in the larger public interest of the rural agrarians.

7.3 Thirdly, the learned Advocate General contends that the ban imposed by G.O. Ms. No. 2481, Department of Education, Science and Technology, dated 9-11-1982, now stands relaxed in view of G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005, and therefore, the ban referred to by the Apex Court in the decision reported in J. Jayalalitha Vs. Government of Tamil Nadu and Others, no more continues. The learned Advocate General also invited our attention to G.O.Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005, which reads as follows :

GOVERNMENT OF TAMIL NADU ABSTRACT

Sports-Stadia-- Use for purposes other than Sports and Games -- Orders issued.

= = = Youth Welfare and Sports Development Department

G.O.Ms. No./1 Dt. 29-9-2005 Read : G.O.Ms. No. 2481, Department of Education, Science and Technology, dated 9-11-1982.

ORDER:

In the Government Order read above, keeping in mind that public meetings, cultural programmes, etc., organised by outside organisations often result in damages to the stadia, Government directed that stadia should not be spared for activities other than Sports and Games. However, Government's own events and functions have been held in the stadia always ensuring that there is no damage to the tracks and playing areas of the stadia.

2. Taking note of the above position, in partial modification of the order cited. Government relaxes the ban and directs that Government's own events, meets and functions can be organised in the sports stadia provided strict safeguards are adopted not to disturb the tracks and playing areas of the stadia.

3. This order comes into force with immediate effect.

Sd/- Secretary to Government (Emphasis supplied)

7.4. Placing reliance on paragraph (2) of the G.O. Ms. No. 71, Youth welfare and Sports Development Department, dated 29-9-2005, the learned Advocate General submits that the relaxation is not only restricted for the Governments own events, meets and functions but also conditional, namely strict safeguards are to be adopted not to disturb the tracks and playing areas of the stadia.

7.5 According to Mr. N. R. Chandran, learned Advocate General, the Government have already taken all steps (1) to conduct Rural Athletic Sports Meet for the rural folk in order to bring out the talents among the rural people; (ii) to conduct a cultural programme as a part and parcel of the Rural Athletic Sports Meet for the rural folk; (iii) to conduct Farmers Conference; (iv) to launch Thamilaga

Mudalaimalcharin Ullavar Paadugappu Thittam; and (v) to conduct exhibition in the Indoor Stadium with reference to several agricultural schemes and technologies, in the minutes dated 21-9-2009 itself which reads as under :

Minutes of the Co-ordination Meeting held at 5,00 p.m. on 21-9-2005 for the launching of Thamila Mudalaimaicharin Ullavar Paadugappu Thittam

The Chief Secretary initiated the meeting on the conduct of the (Vernacular matter omitted.... Ed.) and the launch of "Thamilaga Mudalaimaicharin Ullavar Paadugappu Thittam" and two new schemes of the Agriculture Department. The function would be held on 5th October at 2.30 p.m. and tentative venue in the Nehru Stadium. The Chief Secretary stressed the importance of the new social security programme and the need for close co-ordination among the departments, detailed arrangement of logistics, crowd and traffic management in the view of the large gathering of around 50,000 expected to attend the (Vernacular matter omitted....Ed.) which will include rural sports. He requested all the officers present to give necessary assistance to make the launch a grand success.

The APC & Secretary, Agriculture briefly outlined the proposed programme on 5th October and enlisted the activities to be performed by various departments. She emphasized the fact that it was a working day and route management will have to be done in a manner not to inconvenience the general public. The COA will be the nodal officer. The details of action to be taken by each department is appended.

The DGP pointed out the need for detailed planning, co-ordination and management of delegates. He made the following suggestions for the District officials :

(a) time of departure of delegates from each district should be scheduled and schedules maintained by the district officials.

(b) The restaurants and hotels enroute where the delegates will take the food need to be identified and alerted in advance.

(c) Each bus to be accompanied by a duty officer and a police constable.

(d) Liaison/nodal officer and the district level from the Transport Department must be named.

(e) The police jeeps will be doing highway patrol.

(f) For unique identification each bus should display banner/flag.

(g) Thiru G. Umaganapathy Shastry, IPS, JCP from the Police Commissionerate and Thiru K.V.S. Murthy, IPS, ADGP will be nodal officers for co-ordinating this function with the Agriculture Department. The following decisions taken in the meeting :

(i) provide adequate number of frisking/ security check points in view of large

number of delegates coming close to start of function.

(Action : DGP)

(ii) Sitting arrangement in the Stadium would be districtwise and preferably identified with the distinct colour code.

(Action : Secy., Agri).

(iii) Metro Water will supply adequate water facilities and refill the water tanks in the afternoon on the day of function to ensure sufficient water supply for the entire day.

(Action : M.D., Metro Water & City Police)

(iv) M. D., SFTC will be the Nodal Officer at the State Level and DM/GM will be Nodal Officers from the Transport Department at District Level.

(Action : Secy., Transport)

(v) PWD and Chennai Corporation will inspect Stadium and chalk out the plan for cleaning the Stadium and surrounding areas, also provide additional toilets.

(Action : Secy., PWD and Chennai Corporation)

(vi) Corporation of Chennai to ensure street lights on the roads approaching the Stadium are functioning well.

(Action : Chennai Corporation)

(vii) Chief Secy. suggested Commissioner, Chennai Corporation to assist Agriculture Department by organising complimentary accommodation in Kalyana Mandapams as this is not a marriage month.

(Action : Chennai Corporation)

(viii) Director of Medical Education to set up adequate number of medical teams, mobile medical teams and ambulances.

(Action : DME)

(ix) Sports Development Authority to take up painting and maintenance of the stadium, replacement of old/non-functional fittings and chairs inside the stadium and keep all the lifts and toilets in good condition. Chief Engineer (Buildings) to also verify and support this.

(Action : G.M., Sports Development Authority)

(x) Two control rooms will be set up by the Agriculture Department with adequate number of telephone lines -- one in Secretariat and one at the venue.

(Action : Secy., Agri)

(xi)(a) Selection and arrangement of beneficiaries for the Social Security

Scheme, at the rate of 4 to 5 per district should be done. The list of beneficiaries will cover all the categories mentioned in the scheme.

(b) For Agriculture Schemes Commissioner of Agriculture will be responsible for beneficiary presence.

(Action : Secy., Revenue/CRA)

(xii) Aavin to put up stalls for sale of products and supply water and milk sachets in the stadium on a complimentary basis.

(Action : M. D., Aavin)

(xiii) Good number of cultural programmes with agriculture theme to be arranged for the function,

(Action : Secy., Agri)

(xiv) Pre and post function publicity should be good.

(Action : Secy., I & PR)

(xv) The Chief Secretary suggested that the delegates arriving the previous day of function may stay overnight and start on 6th morning to avoid travel at night.

(Action : Secy., Agri)

All departments are requested to take action as above. There will be a further review next week. All preparatory action should be completed by them.

Sd/- Chief Secretary to Government.

7.6 In continuation of the minutes dated 21-9-2005 and the restrictions imposed by G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005, the Sports Development Authority of Tamil Nadu in the proceedings dated 30-9-2005 granted permission to the Government to use the Chennai Jawaharlal Nehru Stadium for conducting (i) Tamizhaga Muthalamaicharin Uzhavar Padhukappu Thittam, (ii) Tamil Nadu Women in Agri Business and Extension, (iii) Intensified Agriculture Extension Programme; and (iv) State Level Rural Sports Meet, imposing stringent conditions to maintain the international standards of the stadium. The proceedings dated 30-9-2005 reads as follows :

SPORTS DEVELOPMENT AUTHORITY OF TAMIL NADU

Re. No. 18892/S1-1/2005, dated 30-9-2005.

To :

The Commissioner of Agriculture, Chepauk, Chennai-5.

Sir,

Sub : Agriculture Department -- Conduct of Agricultural Expo from 5th and 7th October, 2005 at SDAT.

Jawaharlal Nehru Outdoor Stadium--Permission -- Order issued --Reg. Ref: Your office Lr. No. IAC8/15I721/

2005/2005, dated 27-9-2005. Thank you for your letter cited above confirming that the Hon"ble Chief Minister shall be declaring open the "State Level Rural Athletic Meet 2005". We have also noted that on this occasion, the Hon"ble Chief Minister shall be launching the following three schemes :

- (1) Tarnizhaga Muthalamaicharin Uzhavar Padhukappu Thittam
- (2) Tamil Nadu Women in Agri Business and Extension
- (3) Intensified Agriculture Extension Programme
- (4) State Level Rural Sports Meet.

It is also noted that he Hon"ble Chief Minister shall be distributing benefits to about 150 beneficiaries near the VIP dais.

Permission is granted to use the stadium for the above cited purpose subject to the following conditions :

(See Table below)

The organizers shall be responsible for any loss and damages caused to the property of Sports Development Authority of Tamil Nadu, Loss of Life of the Spectator, Athletes, Officials or as a result of any untoward incidence during the function.

- * The Athletic Track should be only used for conducting the sports and games.
- * Cultural programme if any shall be conducted only on the turf, without spoiling the turf,
- * Arches, stage or any form of erection should not be done inside the playing area.
- * The spectators should be seated on the chairs provided in the gallery.
- * Dais or any other projection should not be erected on the synthetic athletic surface.
- * No spectators will be permitted to stay in the gallery or in the stadium overnight.

I am to request you to kindly remit the charges to SDAT JN Stadium, Chennai-3 by Demand Draft in favour of "Member Secretary, Sports Development Authority of Tamil Nadu, Chennai".

Sd/- Member Secretary I/c.

7.7 Accordingly, the learned Advocate

_____ Sl. No. Facilities Rate Refundable Deposit Maanila Uzhavar Maanadu and Rs. 10,500/- @ Rs. 5000/- State Level Rural Sports Meet in Rs. 3500/- per the Stadium and vacant places day outside You are requested to mention SDAT JN Stadium in your future communications. Cancellation Charges : a) 7 days before the meet : 10% of the rental charges b) 1 day before the meet : 25% of the rental charges _____

General strongly justifies the permission granted for conducting the Farmers Conference and launching Tamilaga Mudhalaimaicharin Ulava Paadugapu Thittam on 5-10-2005.

8. We have given our careful consideration to the submissions made by both the sides.

9. Of course, Mr. R. Viduthalai, learned senior counsel appearing for the petitioner has made it clear that the petitioners are not opposed to the Farmers Conference at all, but his objection is that while conducting the Farmers Conference as a political agenda for the ruling party, the Government should not use the Chennai Jawaharlal Nehru Stadium for the activities other than sports and games or activities subservient, ancillary or consequential to these objects, which would be otherwise contrary to the views expressed by the Apex Court in the decision reported in J. Jayalalitha Vs. Government of Tamil Nadu and Others, :

10. We should fairly state that both the sides proclaimed, quoting the words of Saint Thiruvalluvar that,

(Vernacular matter omitted....Ed.)

Translated as,

Tillers are linch-pin of mankind; Bearing the rest who cannot tend,
meaning that,

Agriculturists are (as it were) the linchpin of the world, for they support all other workers who cannot till the soil;

and also

(Vernacular matter omitted....Ed.) translated as,

They live who live to plough and eat; the rest being them bow and eat
meaning that,

They alone live who live by agriculture; all others a cringing, dependent life.

Accordingly, both sides are keenly interested in the welfare and well-being of farmers and also for introduction of any scheme for the betterment of the farmers.

11. In the light of the above stand taken by either side, the following issues arise for our consideration :

(i) Whether the writ petition qualifies the requirements of public interest litigation?

(ii) Whether the impugned permission granted to the Government to conduct the Farmers Conference on 5-10-2005 is justified merely in view of G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005 ?

(iii) What orders are to be passed under the facts and circumstances of the case ?

12. Point-- (i) : Whether the writ petition qualifies the requirements of public interest litigation ?

12.1 It goes without saying that it was the tax payers money that went to build the impugned stadium spending several crores of rupees to meet the international standards, and it is a settled law that the tax payers have a right to claim that the stadium should be maintained as such and not to be treated as just any other public place.

12.2 Even though both the sides are accusing each other that the respective claims of each other are based on political agenda, we do not propose to enter into such political thicket, as such contentions are, in our considered opinion, extraneous and irrelevant for the disposal of the above writ petition and equally, the Court should not shirk from its duty of performing its function on the ground that the issues raised directly or indirectly have political thicket, as the failure to decide the same at this stage would lead for further damage of the public interest in issue. Hence, having satisfied that the petitioner being a tax payer, has got a right to approach this Court by way of filing Public Interest Litigation claiming that the impugned stadium having been built out of public money, should not be treated as just any other public place, in the light of the decision of the Apex Court in J. Jayalalitha Vs. Government of Tamil Nadu and Others, . The point No. (i) is answered in affirmative.

13. Point No. (ii): Whether the impugned permission granted to the Government to conduct the Farmers Conference on 5-10-2005 is justified merely in view of G.O.Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005 ?

13.1 We have carefully gone through the Minutes dated 21-9-2005 on which date the ban imposed by G.O. Ms. 2481, dated 9-11-1982 was very much in force and therefore, the situation was fully governed by the views expressed by the Apex Court in its judgment dated 24-9-1998. In the Minutes dated 21-9-2005, only in preamble portion, we find that the Farmers Conference will include a Rural Sports event. We do not see anything relating to sports and games events in other portions of the Minutes. The only other relevant clause in the Minutes is Clause IX wherein Sports Development Authority is directed to take up painting and maintenance of the stadium, replacement of old/ non-functional fittings and

chairs inside the stadium and keep all the lifts and toilets in good condition. It is therefore clear that the principal object of the programme is only to conduct the Farmers Conference and the Rural Athletic Sports Meet is only casually and superficially referred to in the Minutes dated 21-9-2005. In other words, the conduct of Rural Athletic Sports Meet on 5-10-2005, in our considered opinion, appears to be ancillary to the Farmers Conference.

13.2 Even though an attempt was made by Mr. N.R. Chandran, learned Advocate General that the views expressed by the Apex Court will not fit in to the impugned usage of the stadium, because in the year 1998 the impugned stadium was proposed to be used by the private organisation, namely, Tamil Film Producers Association, whereas the present usage is meant for Government function which is protected by the Government Order dated 29-9-2005, we are unable to subscribe ourselves with the said contentions for the following reasons :

(a) The issue before the Apex Court in the decision in J. Jayalalitha Vs. Government of Tamil Nadu and Others, is not whether the stadium could be used for private function or Government's own events, meets and functions, but the issue was whether the impugned stadium could be used for sports or non-sports activities, of course, in the light of the ban on the non-sports use of sports stadia imposed in G.O. Ms. 2481, dated 9-11-1982. The Apex Court, in clear terms, in the above judgment, held that there is no justification for letting out the stadium to any person to conduct activities other than sports and games or activities subservient, ancillary or consequential to these objects. The expression, "any person" includes the Government. Otherwise, the Apex court would have restricted the meaning of the expression, "any person" only to private party exempting the Government departments and authorities. Further, the issue before the Apex Court was with reference to the usage of the stadium, namely, whether the impugned stadium could be used for conducting any activity other than sports and games or activities subservient, ancillary or consequential to these objects, but not with reference to the user of the stadium, namely, private organisation or the Government departments/authorities.

(b) The Apex Court has also made it clear that one time user of the stadium in the year 1998 would in no event be permitted to be quoted as a precedent.

(c) The Apex Court has also held that such one time user of the stadium would not create any right in favour of anyone to ever claim the stadium for the purposes other than sports activities so long as the ban continues.

(d) Though the Government have proposed to take shelter under G.O.Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005 relaxing the ban to use the stadium for Government's own events and functions in the sports stadia, the Apex Court has clearly held in its judgment dated 24-9-1998 that it did not see any reason as to why the ban should not continue for everafter. In other words, there cannot be any discriminatory treatment between private organisations and Government departments with reference to

the usage of sports stadia. Therefore, whether it is a private party or the Government departments or organisations, the ban cannot be relaxed merely based on status even though the Government is the owner of the stadium, because the stadium was built out of public revenue spending several crores of rupees and the tax payers have got every right to claim that such stadium which is made to meet the international standards should not be treated as just any other public place.

(e) Even though G.O. Ms. No. 71 Youth Welfare and Sports Development Department, dated 29-9-2005 relaxed the ban for the Government's own events, meets and functions imposing stringent conditions with strict safeguards which are to be adopted not to disturb the track and playing area of the stadia, we are satisfied that the said relaxation suffers from colourable exercise of power by the Government as the Government intend to do indirectly what they cannot do directly which is opposed to the views expressed by the Apex Court in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, . Hence, we are convinced to strike down the G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005 as the same is arbitrary, unreasonable and suffers from colourable exercise of power violating the Article 14 of the Constitution of India. Therefore the impugned permission given is not justified merely based on G.O. Ms. No. 71, Youth Welfare and Sports Development Department, dated 29-9-2005.

13.3 It may, therefore, not be proper for the State to contend that merely because the ban imposed does not continue in view of the restricted relaxation by G.O. Ms. No. 71 Youth Welfare and Sports Development Department, dated 29-9-2005 imposing stringent conditions mentioned thereunder insofar as the usage of the stadium is concerned, but not with reference to the user of the stadium.

13.4 Further, there cannot be any exception to the Government functions with reference to the usage of the stadium, as otherwise, we are afraid, the impugned stadium will lose its international standards and its usage.

13.5 That apart, the Apex Court in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, has also made it clear that one time user of the stadium in the year 1998 would in no event be permitted to be quoted as a precedent, or creating any right in favour of anyone which includes government in so far as user is concerned, for the purposes other than sports activities in so far as usage is concerned. Therefore the point No. (ii) is answered in negative.

14. Point (iii) : what orders are to be passed under the facts and circumstances of the case ?

14.1 The petitioner has no objection for conducting the Farmers Conference in the indoor stadium. However, the learned Advocate General explained the difficulties and impracticabilities in conducting the conference in the indoor stadium as the Government proposes to conduct an agricultural exhibition in the

indoor stadium explaining to the rural masses as to the several agricultural schemes and latest scientific technologies relating to agriculture for three days in the indoor stadium. No body can deny that such an agricultural exhibition would favour the farmers and enlighten them with reference to the advance scientific technologies in the agricultural activities, which would in turn help the State to have more agricultural production, which is the need of the hour.

14.2 According to the statistics placed before us, the State expects more than 50,000 farmers to participate in the conference, who would stay outside the stadium premises as the arrangements are being made for their stay in Kalyana Mandapams. Therefore, the possibility of those 50,000 farmers to have access to the agricultural exhibition proposed to be conducted for three days cannot be lightly disregarded. In which case, conducting the Farmers Conference in the indoor stadium, simultaneously along with the exhibition, is ruled out. On the other hand, we are unable to ignore the fact that the impugned conference also includes the Rural Athletic Sports Meet for the rural folk, in order to bring out the talents among the rural people, which cannot be sidelined with reference to the usage of the stadium, assuming it is secondary and supplementary to the Farmers Conference.

14.3 That apart, the Government also proposed to conduct a cultural programme as a part and parcel of Rural Athletic Sports Meet, which are eventually and conventionally permissible as in the Olympic Games, Commonwealth Games, Asian Games etc. and therefore, it may not be proper to deny such cultural programme to the rural participants.

15. Taking these vital facts into consideration, we are of the considered opinion that the Government cannot disown its responsibility to honour the views expressed by the Supreme Court in *J. Jayalalitha Vs. Government of Tamil Nadu and Others*, , in spirit and substance, as we expect the Government to be a role model to the public at large in this regard and therefore, this Court, as a fait accompli, does not propose to disappoint 50,000 farmers who are expected to participate in the Conference, nor could restrain the respondents from the usage of Jawaharlal Nehru Stadium for the proposed function alone on 5-10-2005, but on the following terms :

- (i) The Athletic Track should be only used for conducting the sports and games.
- (ii) Cultural programme if any shall be conducted only on the natural turf, without spoiling the same and the participants in the cultural programme shall not cause any damage to the athletic track also.
- (iii) Arches, stage or any form of erection should not be done in the stadium and no pole should be erected in the stadium nor flags of any political party can be permitted to be hoisted in the stadium.
- (iv) The spectators should be seated in the chairs provided in the gallery.
- (v) Not more than 250 including the artists and security personnel should be

permitted at a time in the natural turf area.

(vi) Dais or any other projection should not be erected on the synthetic athletic surface as well as the natural turf area.

(vii) No spectator should be permitted to stay in the gallery or in the stadium overnight.

The writ petition is disposed of accordingly. No costs. Consequently, W.P.M.P. No. 34972 of 2005 is closed.