

(2014) 11 MAD CK 0211
In the Madras High Court
Case No : Writ Petition No. 30803 of 2014

P. Manimaran

APPELLANT

Vs

The Assistant Commissioner of Police

RESPONDENT

Date of Decision : 26-11-2014

Acts Referred:

Constitution of India, 1950 — Article 19(1)(a), 32

Citation : (2014) 11 MAD CK 0211

Hon'ble Judges : V. Ramasubramanian, J

Bench : Single Bench

Judgement

V. Ramasubramanian, J.—The petitioner has come up with the above writ petition seeking the issue of a writ of mandamus to direct the respondents to permit them to hold a Public Meeting on 27.11.2014.

2. Heard Mr. G. Devadoss learned counsel for the petitioner and Mr.S.T.S.Moorthy learned Government Pleader assisted by Mr.I.Inbadurai learned Special Government Pleader for the respondents.

3. The petitioner submitted an application on 08.11.2014 seeking permission to hold a public meeting from 7.00 p.m. to 10.00 p.m. on 27.11.2014 at T. Nagar. Though a period of more than two weeks was available, from the date of representation till the date of proposed meeting, the application was not disposed of, compelling the petitioner to file a reminder dated 21.11.2014 and thereafter, to come up with a writ petition.

4. On 24.11.2014 when the writ petition came up for admission, Mr.A.Kumar learned Special Government Pleader took notice for the respondents.

5. Today the respondents have filed a common counter affidavit. In the counter affidavit, they have raised two objections to the request of the petitioner to grant permission to hold a public meeting on 27.11.2014. The first objection raised by the respondents is that the grant of permission to hold a public meeting, will result in Law and Order problem. However, the said objection, has already been

over ruled by a learned Judge of this Court in S. Sivabalan Vs. Deputy Superintendent of Police and Another, . Therefore the first ground on which permission was denied cannot be upheld.

6. The second ground of objection is that though the application of the petitioner dated 08.11.2014 was purportedly for elaborating upon a conference to be held to commemorate Arignar Anna's Birthday, the real motive of the petitioner is only to speak about LTTE and its deceased leader, on the occasion of the birth anniversary of the leader of the LTTE. Since the organisation is a banned organisation, the respondents object to the petitioner speaking about the organisation and its leader in the meeting.

7. Before considering the validity of the said objection, it is necessary to take note of one intervening event that has happened. It appears that on the date on which the writ petition was filed, the Assistant Commissioner of Police issued a show cause notice dated 24.11.2014 to the petitioner calling upon the petitioner to give certain details. The first and second questions that the 1st respondent posed were as to whether the petitioner will speak about the banned organisation or whether the petitioner will speak about the leader of the banned organisation. In response to the said questions, the petitioner gave a reply on the very same date. In the reply, the petitioner has clarified that in so far as the LTTE is concerned, the General Secretary of the Petitioner Political Party would speak only in tune with the decision of the Supreme Court in People's Union for Civil Liberties and Another Vs. Union of India (UOI), . He has also stated in para 2 of his reply that after a public meeting conducted in the year 2012 no case was registered against the petitioner or any one of the speakers on the ground that they had spoken in favour of LTTE. But in so far as the events that had happened in Sri Lanka is concerned, the petitioner has pointed out that the Assembly of the State of Tamil Nadu itself has passed a resolution and that there can be nothing wrong in speaking something about which a resolution has already been passed by the Assembly.

8. It is seen from the reply that the petitioner has given two indications. The first is that non prosecution of any of the speakers who participated in the public meeting held in 2012 indicates the fact that the apprehension of the police is not true. The second is that the petitioner would obey the law laid down by the Supreme Court.

9. In People's Union For Civil Liberties and another, a writ petition filed under Article 32 of the Constitution of India directly on the file of the Supreme Court challenging the validity of the Prevention of Terrorism Act, 2002 came up for consideration. The first seventy two paragraphs of the judgment deal with the writ petition filed by PUCL. From paragraph 73 onwards, the writ petition filed by the General Secretary of the Party of the writ petitioner was taken up. In paragraph 74 of the decision, the Supreme Court framed two questions for consideration. The second question was "whether mere expression of sympathy for Tamils in Sri Lanka for whom the Liberation Tigers of Tamil Eelam become the

sole representative recognised by the International community amount to support to a terrorist organisation under the POTA, thereby empowering the State to curtail personal liberty?"

10. That question is taken up for discussion in paragraph 76 of the decision, where the Supreme Court did not express any views, but left it to the Special Court to decide.

11. Thereafter, the Special Court appears to have passed an order in M.P. No: 33 of 2014 on 03.09.2004 in Special CC No: 1 of 2003. That order came to be challenged by way of appeal in CrI. Appeal No: 290 of 2014. The appeal was allowed and the order of the Special Court was set aside. The judgment of the Division Bench of this Court was accepted and the proceedings were allowed to be closed before the Special Court on 24.11.2014.

12. Therefore, when a clarification has been issued by a reply dated 24.11.2014, it is not possible for the respondents to presume that somebody will violate the law. Repeatedly this Court has held that on presumption that a person is bound to violate the law, permission to hold demonstrations cannot be rejected. Therefore, the second ground cannot also be accepted.

13. However, I should take note of one interesting argument advanced by the learned Government Pleader. Many political parties or other organisations who come up with writ petitions challenging the rejection of any of their request for organising Public Meetings, Demonstrations or Processions, do not really have absolute faith in the Fundamental Right to Freedom of Speech and Expression and that therefore they cannot pitch their claim on Article 19(1)(a) of the Constitution of India.

14. I agree. It is seen that several organisations and political parties object to the screening of films such as "DAM 999", "KATHI", etc. and also object to the publication of books on the ground that they hurt the sentiments of someone. On such occasions they even demand the Government to curtail the fundamental right to freedom of expression or other people. But when their own applications for holding Public Meetings and organising Processions are rejected, they invoke Article 19(1)(a) of the Constitution.

15. Therefore, it is clear that no one has absolute faith in the Fundamental Right to Freedom of Speech and Expression. People understand Article 19(1)(a) to mean a Fundamental Right to Freedom of their own expression and not that of others who hold a view point that cannot be tolerated by them. But fortunately, the Government and the Court alone maintain consistency, the Government uniformly rejecting the request of all groups and the Court uniformly allowing the request of all groups.

16. Therefore, in the result the writ petition is allowed directing the respondents to grant permission to the petitioner to hold a Public Meeting subject to the usual terms and conditions that they may incorporate. Connected miscellaneous

petition is closed. No Costs.