

(2017) 03 KL CK 0072
In the High Court Of Kerala
Case No : 10613 of 2017 (B)

**PARAKKAT SREE BHAGAVATHI KAVASSERY DESAM POORA COMMITTEE
Vs THE ADDITIONAL DISTRICT MAGISTRATE? PALAKKAD-678 001**

Date of Decision : 29-03-2017

Acts Referred:

Citation : (2017) 03 KL CK 0072

Hon'ble Judges : P.R.Ramachandra Menon, A.M.BABU

Bench : DIVISION BENCH

Advocate : K.RAMAKUMAR, S.M.PRASANTH, R.S.ASWINI SANKAR, T.K.ANATHA KRISHNAN

Final Decision : Disposed

Judgement

1.The petitioners, who are officer bearers of the different "Pooram" Committees of different areas/desoms connected with the "Parrakkat Sree Bhavagathi" Temple, have approached this Court seeking for a direction to be given to the respondents to grant permission to the petitioners to display "fire works" as requested by them in Exts.P1 to P4 applications with appropriate/reasonable restrictions in connection with the festival in the "Parrakkat Sree Bhavagathi" Temple (Kavasseri Pooram) organized by the petitioners and scheduled to be conducted on 7th, 8th, and 9th of April, 2017.

2.Heard Sri.K.Ramakumar, the learned Senior counsel for the petitioners and Sri.T.K.Anantha Krishnan, the learned Government Pleader appearing for the respondents.

3.The sum and substance and the grievance projected by the petitioners is that the aforesaid festival is being conducted every year, including the "fire works display" as part of it, to please the deity, in conformity with all the relevant rules, norms and regulations, without giving any room for complaint/objections from any corner. It is pointed out that, the petitioners "Samithies" are actively taking part in conducting the Temple festival for the past several decades and no untoward incident or any adverse circumstance has occurred in the previous years, in connection with the "fire works display". All arrangements have been stated as made in conformity with the statutory requirements and in tune with the directions issued by the competent authorities. It is also pointed out that, the fire works display is proposed to be conducted in a vast area of vacant land and there is no building or dwelling place anywhere near the locality.

4.Despite filing Exts.P1 to P4 applications, no positive steps were taken by the respondents to consider the same and pass appropriate orders, in spite of the fact that the petitioners had undertaken before the Tahasildar, Alathur, that

all the safety measures will be taken and barricades will be erected at the place where the display of "fire works" is proposed to be held, to avoid any danger. The learned counsel for the petitioners submits that the festival was being conducted for more than a century, with display of "fire works" and that the inaction on the part of the respondents will be detrimental to public interest, hurting the feelings of the devotees and the public at large. The learned counsel further submits that the Committees have already given assurance that no prohibited items like "dynamite" or "amittu" which are likely to cause danger to human life, will be used and that the request is only to permit other types of fire works to be displayed, subject to such appropriate conditions to be imposed by the competent authorities.

5.The learned counsel further submits that banning the display of fire works will not be conducive to public interest. The display of "fire works" is being done in the large areas of uninhabited lands and paddy fields, which are not used in summer. It is asserted that only authorized crackers/fire works will be used and hence there is no possibility of danger at all to human beings or properties.

6.During the course of hearing, it is brought to the notice of this Court, that the Apex Court had occasion to deal with the situation in connection

with the "Thrissur Pooram" and an order was passed on 26.03.2007, relaxing the standards to the requisite extent in connection with the "fire works display" as part of Temple festival. Reference was also made to the verdict passed by the Apex Court on an earlier occasion ie., Noise Pollution (V), in RE, Forum, Prevention of Environmental & Sound Pollution vs. Union of India & Anr . [2005(5) SCC 733]. It is pointed out that, under similar circumstance, permission has been granted by this Court as well, as evidenced from Ext.P3, for carrying out the fire works display, subject to appropriate conditions.

7.The learned Government Pleader submits on instructions that, no untoward incidents have been reported in the previous years and permission was being granted subject to specific conditions, to ensure safety and security.

8.Learned Senior Counsel appearing for the petitioners submits that petitioners have already assured and undertaken that no prohibited items will be used in the fire works display and that clearance need not be given in respect of such items. It is also pointed out that sufficient insurance coverage has been provided to meet any eventuality.

9.After hearing both the sides, we find that the Competent Authority could be directed to issue necessary clearance for display of the "fire works" in connection with the "Parrakkat Sree

Bhavagathi" Temple festival (Kavasseri Pooram), based on Ext.P1 to P4 applications; except the prohibited items as mentioned above and of course, subject to the riders stipulated by the Apex Court; which shall be at the risk of the petitioners. It is open for the competent authority to incorporate appropriate conditions to safeguard the interest of all concerned and to enable the display to be conducted with adequate precautions. It is ordered accordingly.

10.It shall be ensured by the respondents that safe distance be maintained between the place of fire works display and the line upto which the general public can be permitted to have access and witness the event. Sufficient barricades shall be provided ensuring the safety and security. The place where the" fire works" are to be stored and the place of display shall be inspected by the Police, Revenue and Fire & Rescue authorities under close surveillance. Proof of having taken insurance coverage as mentioned above shall be produced by the petitioner before the Competent Authority, before granting permission. It is open for the authorities to ensure satisfaction of all the relevant norms/conditions stipulated in the "sanction" to be given by the Competent Authority. It shall also be ensured by the authorities concerned, as to the course to be pursued at time of fire works display, if at all

any electricity line is existing/passing through the vicinity, with the support to be obtained from the authorities of the Kerala State Electricity Board Ltd.

Writ petition is disposed of accordingly.