
(2023) 03 KL CK 0212
In the High Court Of Kerala
Case No : Writ Appeal No. 636 Of 2023

Park Residency

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 22-03-2023

Acts Referred:

Citation : (2023) 03 KL CK 0212

Hon'ble Judges : K.Vinod Chandran, J;C.Jayachandran, J

Bench : Division Bench

Advocate : Thomas Abraham, Merciamma Mathew, Aswin.P.John,
R.Ananthapadmanaban, Paul Baby, Shajahan.T.K

Final Decision : Dismissed

Judgement

K.Vinod Chandran, J

1. The challenge is against Ext.P2 order, which prohibits sale of liquor within the Kodungallur Police Station limits due to the 'Meenabharani Mahotsavam' of the Sree Kurumba Bhagavathy Temple at Kodungallur. The contention against the order is that it is a verbatim reproduction of the earlier order, which is produced as Annexure A1 and that even in the earlier instance by Ext.P3(a) interim order, though the prohibition was for three days, the prohibition on the second day was taken away. In the present order, there is prohibition imposed even after the festival concludes.

2. We have heard Sri.Thomas Abraham, learned Counsel appearing for the appellants and Sri.Shajahan T.K, learned Senior Government Pleader appearing for the respondents.

3. We had clarified the issue in the judgment dated 02.03.2023 in W.A.No.489 of 2023 and connected cases and we had found that the consideration made by the District Collector for the best administration of the area where a festival is scheduled, to maintain law and order, has to be respected and obeyed de hors commercial considerations. The discretion exercised by the District Collector

cannot be lightly interfered with. We had distinguished the judgment in Mary Kurian produced as Ext.P7 in the present case. Here the contention raised is that the order now passed is a verbatim reproduction of the earlier order passed. We notice that the earlier order produced as Annexure A1 is with respect to the last year and definitely there would be no violent instances for reason of liquor consumption at that time. The general statements made in Ext.P1(a) equally applies this year also. We cannot but say that there cannot be a pedantic approach, if the orders are similar in nature to consider it as a verbatim reproduction in the present year also. The facts being same the construction of sentences could be varied to avoid a challenge on the ground of verbatim reproduction. But that should not be the criteria while exercising judicial review of administrative actions. Again we have to notice that in Mary Kurian there were a number of aspects, which persuaded the Court, one of which was verbatim reproduction. It was the total cumulative impact of such aspects that resulted in interference. We do not think such a ground can be taken in isolation to interfere at every such instance.

4. We also do not think that the interim order, which relieved the bar hotels of one day of prohibition has any application insofar as we have now clarified Mary Kurian, which was the sole basis on which the interim order was issued. Another contention taken up by the learned Counsel is that even on the next day of the festival, there is a prohibition. We have to consider the same in the context of the specific festivity, which extends over a period of time and even after it is concluded there is congregation of people from all over the State, who leave the premises of the temple leisurely. The rather huge crowd of participants and the hysteric frenzy with which religiousness is demonstrated need not be further imbibed with 'spirit-ual' intoxication.

We perfectly agree with the interim order passed and dismiss the writ appeal in limine.