
(2015) 11 MAD CK 0056

In the Madras High Court

Case No : W.P. No. 37512 of 2015 and M.P. No. 1 of 2015

S. Jeevan

APPELLANT

Vs

The Assistant Commissioner of Police and Others

RESPONDENT

Date of Decision : 26-11-2015

Acts Referred:

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

Citation : (2015) 11 MAD CK 0056

Hon'ble Judges : M.M. Sundresh, J.

Bench : Single Bench

Advocate : G. Devadoss, for the Appellant; A. Kumar, Special Additional Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

M.M. Sundresh, J.—By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr. G. Devadoss, learned Counsel appearing for the petitioner and Mr. A. Kumar, learned Special Government Pleader for the respondents.

3. The petitioner is the North Chennai District Secretary of a political party. An application was made by the petitioner on 11.11.2015, seeking permission to conduct a public meeting on 27.11.2015. As there was silence on the part of the respondents, a reminder was sent on 18.11.2015. In view of the continued inaction on part of the respondents, the petitioner has approached this Court by filing this Writ Petition.

4. The learned counsel for the petitioner submitted that the issue involved is no longer res integra as the petitioner was made to approach this Court, even for the last year's meeting. This Court passed an appropriate order in W.P. No. 30803 of 2014 dated 26.11.2014, pursuant to which, the meeting was conducted.

5. The learned Special Government Pleader submitted that a show cause notice

was issued to the petitioner on 23.11.2015 and though a reply was given, without waiting for the final order, the petitioner is before this Court and considering the purpose for which the meeting is proposed, the request made shall not be granted. Additionally, it is stated the roads have been damaged due to battering suffered from the rains and therefore, the request of the petitioner is not feasible to be considered.

6. The petitioner approached this Court last year with the similar request and an order was passed one day prior to the proposed function. It is apposite to record the order passed by this Court in W.P. No. 30803 of 2014 dated 27.11.2014 which reads as under:--

"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 Crl. 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."

7. The situation remains the same except the fact that the conditions of the road is not good in view of the incessant rain. It is seen that even on the last occasion, an objection was taken with respect to the road being under repair. Thus, the road being constantly under repair is a common factor in both the cases.

8. It is seen that the petitioner had submitted the application on 11.11.2015, strangely, the respondent has not passed an order till now. However, the counter filed would show that there is no necessity as decision has already been taken to reject the request.

9. Considering the facts and circumstances of the case, this Writ Petition stands allowed in the very same terms as ordered by this Court in W.P. No. 30803 of 2014 dated 26.11.2014. No costs. Consequently, connected miscellaneous petition is closed.