
(2016) 11 MAD CK 0056

In the Madras High Court

Case No : W.A(MD) No. 1422 of 2016 and C.M.P. (MD) Nos. 10716 to 10718 of 2016

Shahul Hameed

APPELLANT

Vs

S. Sankar Ganesh

RESPONDENT

Date of Decision : 25-11-2016

Acts Referred:

Constitution of India, 1950 — Article 19(1)(a), Article 19(b), Article 226

Citation : (2017) 1 MLJ 880 : (2017) 1 WritLR 537

Hon'ble Judges : Mr. M. Sathyanarayanan and Mrs. J. Nisha Banu, JJ.

Bench : Division Bench

Advocate : Mr. Pugalenthir, Additional Advocate General assisted by Mr. A.K. Baskara Pandian, Special Government Pleader (Writs), for the Respondent Nos. 2 to 4; Mr. N. Ananthapadmanaban for Mr. Karthikeya Venkatachalapathy, Advocates, for the Respondent No. 1; Mr. M

Final Decision : Allowed

Judgement

M. Sathyanarayanan, J. - By consent, this Writ Appeal is taken up for final disposal.

2. Mr. Shahul Hameed, S/o. Kayas Mohamed, District President, Popular Front of India, No.142, North Veli Street, Second Floor, Madurai -1, had filed C.M.P.(MD) No.1301 of 2016 in W.A.(MD) SR No.966 of 2016, praying for leave of this Court to file Writ Appeal against the order of this Court in W.P.(MD) No.21423 of 2015 and it was ordered on 24.02.2016 and thereafter, the Writ Appeal was numbered and listed for admission.

3. The appellant in the affidavit filed in support of the petition in C.M.P.(MD) No.10716 of 2016, for stay would aver among other things that their organisation, namely, Popular Front of India is a Neo-Social Movement that strives for the total empowerment of the backward, oppressed and marginalized section of the society and it is a pioneer State organization has always been on the forefront in the protection of Civil and Human Rights enshrined in the

Constitution of India and it is active in Socio-cultural and non-political arenas. The members of their organisation also involved themselves at the time of natural calamities such as Tsunami disaster and they assisted the Governmental agencies in the disposal of unidentified corpses and also assisted in the distribution of the relief materials for the victims and in addition to that, they have provided emergency financial aid and relief materials worth Rs.10 Lakhs for Uttarakhand flood relief to the Chief Minister of Uttarakhand. They are also providing several kinds of aid and also conducted medical camps in sixty places and more than four thousand members of their organisation, had participated in the cleaning work in 120 places in Chennai during the November, 2015 flood calamities.

4. The grievance expressed by the petitioner is that the 1st respondent herein filed W.P.(MD) No.21423 of 2015, praying for issuance of Writ of Mandamus, directing the respondents to look into the grievance of the petitioner expressed in their representation dated 26.11.2015, and thereby accord permission to conduct the agitation using the sound speakers on 06.12.2015 around 5.30 p.m. The learned Judge after going through the materials placed and upon hearing rival submissions and also placing reliance upon the judgments rendered by this Court as well as the Hon"ble Supreme Court of India has passed the following order and it is relevant to extract paragraph 16:

"16. Considering the overall circumstances of the case, this Court is inclined to pass the following orders:

i) The respondents are directed to consider the representation of the petitioner dated 26.11.2015 on or before 5.30 p.m. of 05.12.2015 keeping in mind all the above factors indicates. In the event of the respondents declining the request of the petitioner, they must record reasons and grounds for such rejection and in the said order, they should also justify their stand for the grant of permission to two other organisations. In case the petitioner is ready to conduct the agitation in some other date, time and place, it is open to the respondents to consider the same within their limit.

ii) Since the respondents have already granted permission to two other organisations, this Court do not want to express any opinion on that, as they are not parties to the writ petition. However, the respondents are directed to videograph the entire demonstration and rally being conducted by those two organisations so as to keep watch over the control of the area.

iii) It is further directed that the State Government should not accord permission to any organisation in future irrespective of religions for conduct of such demonstration, rally, protest etc., particularly on the 6th of December, concerning Babari Masjid from the year 2016 so that wastage of public money, time and deployment of forces could very well be avoided and panic among public be restored to bring harmony.

iv) Both the Chief Secretary and the Home Secretary to Government of Tamil

Nadu, Chennai and the Director General of Police, Chennai shall send a circular to all their subordinates, intimating not to grant any permission on the 6th of every December, 2016, onwards within a period of one month from the date of receipt of a copy of this order.

With the above observation and direction, this Writ Petition is disposed of. No costs."

It is the specific case of the petitioner that clause (iii) and (iv) of paragraph 16 of the above cited order affects their fundamental rights guaranteed under Article 19(1)(a) and (b) of the Constitution of India and on 6th day of December of every year from the demolition of Babri Masjid, people professing Islamic faith are conducting demonstration and on account of the above said complete ban order, the respondents 2 to 4 in all probability may not entertain their applications for conducting peaceful processions and demonstrations. Therefore, they are constrained to approach this Court by way of this Writ Appeal.

5. Mr. M. Ajmalkhan, the learned counsel appearing for the appellant would contend that in the impugned order, the constitutional rights conferred on the citizens of India under Article 19(1)(a) and (b) have not been taken into consideration and there is a complete ban on holding any kind of protest or demonstration and the said order negate the constitutional rights guaranteed to them. It is further submitted that in very many judgments rendered by the Hon'ble Apex Court and this Court, it has been held that there cannot be complete ban on conducting procession or demonstration and the learned Single Judge has committed a grave error in passing the impugned order. Therefore, prays for setting aside/modification of clause Nos.(iii) and (iv) of paragraph No.16 of the impugned order passed in W.P.(MD) No.21423 of 2015.

6. Per contra, Mr. Pugalenth, the learned Additional Advocate General, assisted by Mr. A.K. Baskara Pandian, learned Special Government Pleader appearing for the respondents 2 to 4 would submit that for the purpose of conducting demonstration, the organisations, namely, Tamil Nadu Muslim Munnetra Kazhagam (TMMK), Manitha Neya Makkal Katchi (MNMK), Popular Front of India (PFI), Indian Towhid Jamad (INTJ), Marimalarchi Tamil Nadu Muslim Munnetra Kazhagam (MTMMK), Tamil Nadu Sunnath Jamath (TNSJ), Social Democratic Party of India (SDPI), Indian National Leque (INL), Tamil Nadu Marumalarchi Muslim Leque (TMML), Wahdad-e-Islami Hind (WeIH), Jananayaga Marumalarchi Munnetra Kazhagam (JMMK), Tamil Nadu Egathuva Prachara Jamath (TNEPJ) and Tamil Nadu Sunni Muslims (TNSM) are likely to submit applications for holding demonstrations and other allied activities, requiring permission to hold it in different places and it is impossible for them to consider in respect of the above organisations, especially for the reason that the persons likely to be assembled are thousands in number and it may also lead to law and order problem.

7. It is the further submission of the learned Additional Advocate General that some times extremism is also resorted, resulting in planting of IED in a bus at

Thiruvadhavur near Melur, Madurai District, which resulted in registration of the case in Crime No.757 of 2011 by the Melur Police and three accused were arrested and enlarged on bail and on 06.12.2014 some unknown persons pelted stone on State owned bus near water tank, Melapalayam as well as near Government Hospital, Melapalayam, Tirunelveli City, which resulted in registration of the cases in Crime Nos. 639 and 640 of 2014 under Section 3 of Tamil Nadu Public Properties (Damage and Loss) Act and very many incidents affecting religious and communal harmony and the law and order have to be dealt with without causing injury or loss of life to the persons participating in such kind of demonstrations. It is also the submission of the learned Additional Advocate General, adding to the difficulty, some Hindu organisations also seeking permission to hold a meeting, doing "Yaham" on the very same day and it will definitely lead to clash between people belonging to the two religions and since maintenance of law and order is to be given extreme importance, prays for imposing suitable and necessary conditions to contain and prevent unforeseen situations and prays for appropriate orders.

8. This Court paid it's best attention to the rival submissions and perused the materials placed on record carefully.

9. A batch of writ petitions in W.P.(MD) Nos.14673 and 14725 of 2013 and W.P.No.25358 of 2013 were filed before the Principal Bench praying for ban of all sorts of processions to pay homage of to the leaders by private persons, non governmental organisation and political parties and also meetings, processions and conference conducted by caste, religious and communal based organisations and also prohibit the communal based Guru Poojas and Caste based Rallies throughout the State. All the Writ Petitions were taken up for final disposal. A Division Bench of this Court (Hon"ble the Chief Justice Mr. R.K. Agrawal and one of us (MSNJ)) had dealt with the relevant provisions in the Madras City Police Act, District City Police Act, Cr.P.C. as well as the very many judgments rendered by the Hon"ble Apex Court and this Courts and the decision of this Court in S. Sivakumar v. The State of Tamil Nadu [2013(5) CTC 695] and it is relevant to extract the following paragraphs:

"15. Section 41 of the Madras City Police Act, 1888 speaks about the power to regulate assemblies, meetings and processions in public places and it is relevant to extract the same:

Section 41 - Power to regulate assemblies, meetings and processions in public places, etc.

(1) The Commissioner or, subject to his orders, any Police Officer above the rank of head constable, may, from time to time, as occasion may require direct the conduct of all assemblies, meetings and processions in public places ; prescribe the routes by which and the times at which such processions may pass ; keep order in public places and prevent obstructions on the occasion of such assemblies, meetings and processions, and in the neighbourhood of places of

worship during the time of public worship and in any case when public places may be thronged or liable to be obstructed ; and may licence and regulate or prohibit the use of music or of sound amplifiers in any area.

(2) Subject to the provisions of sub-sections (3) and (4), the Commissioner may, by order in writing, prohibit any assembly, meeting or procession if he considers such prohibition to be necessary for the preservation of the public peace or public safety :

Provided that no order under this sub-section shall, without the sanction of the State Government, remain in force for more than fifteen days from the date on which such order takes effect.

(3) (a) When the order referred to in sub-section (2) is in force, any person who intends to convene or collect any assembly or meeting in any public place or to direct or promote any procession, shall make an application to the Commissioner for permission. The application shall be in such form and contain such particulars as may be specified by the Commissioner in this behalf and shall be made not less than five days prior to the date, on which the assembly or meeting is to be convened or collected or the procession is to be formed :

Provided that the Commissioner may, for reasons to be recorded in writing receive such application within five days prior to the date aforesaid.

(b) On receipt of the application under clause (a), the Commissioner may, by order in writing served in the manner specified in sub-section (7), grant permission to convene or collect the assembly or meeting or to direct or promote the procession subject to such conditions as he may specify or refuse to grant such permission.

(4) Except in cases where immediate action is necessary for the preservation of the public peace or public safety no order refusing to grant permission shall be passed under clause (b) of sub-section (3) without giving the person concerned an opportunity of appearing before the Commissioner either in person or by pleader and showing cause against the order refusing to grant permission and the Commissioner shall record in writing the reasons for such order.

The provisions of the Madras City Police Act, 1888 have been extended to commissionerates of Madurai, Coimbatore, Salem etc.

16. Under Section 21 of the Madras District Police Act, 1859, every police officer shall, for all purposes in this Act contained be considered to be always on duty and shall have the powers of a Police Officer in every part of the General Police District and it is his duty to use his best endeavours and ability to prevent all crimes, offences and public nuisances; to preserve the peace; to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace etc.

17. Section 42-A of the Madras District Police Act, 1859 speaks about deputation

of police officers to be present in assembly, meeting or procession in public places and it is relevant to extract the same:

42-A. Deputation of Police Officers to be present in assembly, meeting or procession in public places

(1) Any Police Officer not below the rank of Deputy Superintendent of Police may, in the interest of public order, depute by order in writing one or more Police Officers or other persons to be present in any assembly, meeting or procession, in any public place for the purpose of causing a report to be taken of the proceedings.

(2) Nothing in sub-section (1) shall apply to any assembly or meeting of a purely religious character held in a recognised place of worship, any assembly or meeting gathered together purely for the purpose of taking part in sports, any procession on the occasion of any wedding, funeral or similar domestic occurrence, or of any religious ceremony, or to any public meeting held under any statutory or other express legal authority, or any public meeting or class of public meetings exempted for that purpose by the State Government by general or special order.

Explanation--For the purposes of this section --

(a) the words "assembly", "meeting" and "procession" include any assembly, meeting or procession which is open to the public or to any class or portion of the public;

(b) a place in which assembly or meeting is held may be a public place notwithstanding that admission thereto may have been restricted by ticket or otherwise. Section 54-A of the said Act provides power to the State Government to extend certain provisions of Act to any town.

18. Section 144 Cr.P.C. gives power to issue order in urgent cases of nuisance or apprehended danger and it is relevant to extract the same:

144. Power to issue order in urgent cases of nuisance or apprehended danger.-

(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate or any other Executive Magistrate specially empowered by the State Government in this behalf, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in the manner provided by section 134, direct any person to abstain from a certain act or to take certain order with respect to certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquillity, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the

circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed ex parte.

(3) An order under this section may be directed to a particular individual, or to persons residing in a particular place or area, or to the public generally when frequenting or visiting a particular place or area.

(4) No order under this section shall remain in force for more than two months from the making thereof: Provided that, if the State Government considers it necessary so to do for preventing danger to human life, health or safety or for preventing a riot or any affray, it may, by notification, direct that an order made by a Magistrate under this section shall remain in force for such further period not exceeding six months from the date on which the order made by the Magistrate would have, but for such order, expired, as it may specify in the said notification.

(5) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section, by himself or any Magistrate subordinate to him or by his predecessor-in-office.

(6) The State Government may, either on its own motion or on the application of any person aggrieved, rescind or alter any order made by it under the proviso to sub-section (4).

(7) Where an application under sub-section (5) or subsection (6) is received, the Magistrate, or the State Government, as the case may be, shall afford to the applicant an early opportunity of appearing before him or it, either in person or by pleader and showing cause against the order; and if the Magistrate or the State Government, as the case may be, rejects the application wholly or in part, he or it shall record in writing the reasons for so doing.

19. As per Section 149 Cr.P.C. every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of cognisable offence. Under Section 150 Cr.P.C. every police officer receiving information to a design to commit any cognisable offence shall communicate such information to the police officer to whom he is subordinate, and to any other officer whose duty it is to prevent or take cognizance of the commission of any such offence. Section 151(1) Cr.P.C. gives power to a police officer knowing of a design to commit any cognisable offence to effect arrest without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented. Under Section 152 Cr.P.C., the police officer may of his own authority interpose to prevent any injury attempted to be committed in his view to any public property, movable or immovable, or the removal or injury to any public landmark or buoy or other mark used for navigation. Section 154 Cr.P.C. authorizes police officer to register a case/F.I.R on receipt of information relating to commission of cognisable offence and under Section 156 Cr.P.C., he may investigate cognisable case without the order of the Magistrate. Chapter 39 of the Police Standing

Orders speaks about preservation of peace and it elaborates preventive action to be done and also aftermath of any event.

20. Thus, the above provisions gives ample power to the concerned police officer not only to prevent the commission of cognisable offence, but also expects him to take all measures even after the occurrence of any event."

10. In *James Martin v. State of Kerala* [(2004) 2 SCC 203], in *Bharat Bandh* a procession was called on by some political parties, which resulted in commission of cognisable offence under Section 302 I.P.C. and right of private defence was pleaded by the appellant/accused and it is relevant to extract paragraph 24 of the said judgment:

"Before we part with the case it needs to be noted that in the name of Hartal or Bandh or strike no person has any right to cause inconvenience to any other person or to cause in any manner a threat or apprehension of risk to life, liberty, property of any citizen or destruction of life and property, and the least any government or public property. It is high time that the authorities concerned take serious note of this requirement while dealing with those who destroy public property in the name of strike, hartal or bandh. Those who at times may have even genuine demands to make should not loose sight of the overall situation eluding control and reaching unmanageable bounds endangering life, liberty and property of citizens and public, enabling anti-social forces to gain control resulting in all around destruction with counter productive results at the expense of public order and public peace. No person has any right to destroy another's property in the guise of bandh or hartal or strike, irrespective of the proclaimed reasonableness of the cause or the question whether there is or was any legal sanction for the same. The case at hand is one which led to the destruction of property and loss of lives, because of irresponsible and illegal acts of some in the name of bandh or hartal or strike. Unless those who organize can be confident of enforcing effective control over any possible turn of events, they should think twice to hazard themselves into such risk prone ventures endangering public peace and public order. The question whether bandh or hartal or strike has any legal sanctity is of little consequence in such matters. All the more so when the days are such where even law-enforcing authorities/those in power also precipitate to gain political advantage at the risk and cost of their opponents. Unless such acts are controlled with iron hands, innocent citizens are bound to suffer and they shall be the victims of the highhanded acts of some fanatics with queer notions of democracy and freedom of speech or association. That provides for no license to take law into their own hands. Any soft or lenient approach for such offenders would be an affront to rule of law and challenge to public order and peace."

11. In *S. Sivakumar v. The State of Tamil Nadu* [2013 (5) 695], writ petitions were filed seeking permission for celebrations relating to their leaders and for police protection and this Court has taken note of the various decisions including the Judgment of the Hon"ble Supreme Court in *State of Karnataka* and another

v. Dr. Praveen Bhai Togadia [2004 (4) SCC 684] and James Martin case (cited supra) and issued the following guidelines and it is relevant to extract paragraph No.21:

"(i) The respondents have to seriously consider the banning of celebrations of gurupoojas or at least these poojas should be reduced to low key affairs.

(ii) Visits of political leaders and communal leaders have to be banned during these gurupoojas.

(iii) Media should avoid giving undue publicity to these celebrations, as communal and casties groups are benefited by the publicity.

(iv) Hate speeches, objectionable slogans, provocative speeches of the community leaders have to be strictly prohibited.

(v) Public meetings and address by the communal leaders during the particular month of celebrations have to be strictly banned.

(vi) Carrying banners, pasting of posters, painting of walls for the gurupoojas have to be banned.

(vii) Preparatory meetings for the celebrations of these gurupoojas have to be prohibited.

(viii) Processions or assembly of more persons have to be prevented/regulated as there will be likelihood of law and order problem.

(ix) Hiring of vehicles for the celebrations as done during this year, should be continuously prohibited in the coming years also.

(x) Peace Committee meetings have to be conducted and various political leaders, social workers, NGOs have to be roped in, to create a normal and cordial relationship among the various communities in the disturbed areas."

12. In *Durai Sankar v. Secretary to the Government* [(2014) 8 MLJ 114], the local office-bearers of the Rashtriya Swayam Sevak Sangh, prayed for issuance of mandamus, directing the respondents therein to conduct peaceful procession in their respective areas on the occasion of their Founder's Day on 09.11.2014 and to hold a Public Meeting or seeking to set aside the orders of partial or total rejection of such requests. The learned Judge has taken note of Section 41-A of the City Police Act and guiding decisions rendered by this Court and the Hon'ble Supreme Court of India has held that Section 41-A of the City Police Act and Section 30(2) of the Police Act, 1891 are provided only for regulation and not prohibition and therefore allowed the writ petitions and the petitioners were directed to take out processions in the routes specified by the respondents and to hold public meetings in the places earmarked by the respondents with such reasonable restrictions as they deem fit and proper.

13. In *Dr. Ambedkar Mandram v. The Superintendent of Police, Virudhunagar* [2015 (6) CTC 117], the petitioner organisation made a request to the Police

Authority to grant permission to celebrate Dr. Ambedkar 125th Birth Anniversary on 14.04.2015 by distributing sweets, conducting Annadhanam and Welfare Assistance Programmes, to the poor people and it was rejected. Therefore, it was put on challenge before this Court and a Division Bench of this Court after considering various decisions, had set aside the order and granted permission subject to the following conditions:

"i) Names and particulars of the organizers shall be furnished to the Inspector of Police, Thiruchuli Police Station, Virudhunagar District.

ii) The respondents shall monitor that none of the organizers address the gathering in any manner offending the rights and sentiments of others.

iii) The function shall be conducted between 10.00 a.m. and 02.00 p.m. on 14.04.2015 and the function shall confine strictly as per the program, i.e. Distribution of pongal, sweets, savories, followed by Anna Dhanam and welfare assistance.

iv) The organizers shall not raise any slogans offending any individual belonging to political parties or leaders of any other section of the Society.

v) The organizers and the participants of the said function shall not carry any flex boards or placards, which may cause communal disharmony and use of loudspeakers should be within the permissible limits.

vi) Respondents are directed to ensure that the Organizers of the function shall give an undertaking that they would maintain communal harmony and that public peace and tranquility are maintained.

vii) The organizers of the meeting shall also abide by such other reasonable conditions that may be imposed by the respondent police.

viii) The organizers of the function shall follow the above conditions scrupulously. If there is any violation of the conditions imposed by this Court, in addition to any of the reasonable conditions imposed by the respondents, they are entitled to take action, as per law.

ix) It is made clear that prevention of any untoward incident should be the prime consideration of the law enforcement agency.

x) Police is permitted to impose reasonable restrictions, while regulating traffic. It is made clear that under the guise of traffic regulation, stringent conditions should not be imposed, except to maintain law and order."

14. In *City of Londond Corp v. Samede* [(2012) EWCA Civ 160] : (2012) 2 ALL ER 1039] the Court of Appeal, Civil Division has considered the issue relating to putting up of large number of tents by protestors for overnight accommodation and using for their activities and meetings and it is relevant to extract the following:

"The factors relevant to the limits to the right of lawful assembly and protest on

the highway included the extent to which the continuation of the protest would breach domestic law, the importance of the precise location to the protestors, the duration of the protest, the degree to which the protestors occupied the land and the extent of the actual interference the protest caused to the rights of others, including the property rights of the owners of the land and the rights of others, including the property rights of the owners of the land and the rights of any members of the public."

15. It is pertinent to point out at this juncture, in *Popular Front of India v. The Director General of Police* [2015 (2) CTC 515], the same organisation, having office at Chennai, applied for permission for taking out a procession on 17.02.2015 and also to conduct a public meeting and it was rejected and challenging the same, W.P. Nos. 4049 and 4054 of 2015 were filed. The learned Judge, after taking into consideration the past conduct of the organisation rejected their claim, wherein in paragraphs 6 and 7, this Court observed as follows:

"6. The right to freedom of speech and expression and the right to assembly peaceably without arms are fundamental rights guaranteed under Article 19(1) (a) & (b) and this right to subject to the restrictions provided for under clauses (2) & (3) of Article 19. To be a reasonable restriction, with regard to Article 19(1) (a) it should have nexus with public order, decency, morality, insidement of offence, contempt of court, defamation, friendly relation with foreign states and interest of sovereignty and integrity of India. Sofar as the reasonable restrictions with relation to the right under Article 19(1)(b) should have nexus with regard to the interests of the sovereignty and integrity of India or public order or morality. In the case relating to *Durai Shankar*, referred supra, the Court was concerned about the right to take out procession not as an essential part of a religious right, but purportedly for a social cause and the right to hold a public meeting. In the background of those facts, the Court took into consideration the various decisions and taking note of the submission that the organiser are prepared to give the names and addresses of persons who will take responsibility for any untoward incident and the respondents therein having permitted procession and public meetings for several organisation, it is not possible to deny permission to the petitioners" therein.

7. It has to be pointed out that the facts of each case have to be considered independently bearing the legal principle in mind and that Article 19 (2) and (3), empowers the State to impose reasonable restrictions on the exercise of the rights conferred under Article 19(1) (a)& (b) of the Constitution of India." It is also brought to the knowledge of this Court that the said order was challenged before the Division Bench of Principal Bench and the orders were modified and the organizers were permitted to submit a fresh petition with a direction to the concerned authorities to pass orders on the same in accordance with law.

16. In the light of the above cited decisions, this Court is of the considered view that there cannot be any total ban or complete prohibition for conducting public

meetings demonstration. However, the said decisions would also indicate the law and order machinery, namely, the police are entitled to impose reasonable conditions and restrictions in tune with the factual situations and aspects taking into consideration the law and order and public order.

17. This Court in the above cited paragraphs had extracted various conditions to be imposed for the purpose of granting permission and also extracted the legal provisions cited in the common order dated 26.11.2013, made in W.P.(MD) Nos.14673, 14725 and 25358 of 2013, and it is for the respondent police to take cognizance of the same and act accordingly.

18. It is also made clear that in the event of the appellant herein submitting application for demonstration on 06.12.2016 in connection with the demolition of Babri Masjid, the respondent police shall deal with the same in accordance with law. It is further made clear that in the event of permission being granted, office bearers, members, sympathizers of the petitioner organisation, other participants and supporters except in the place earmarked for agitation, shall not do anything in the public road or in the public place to halt or disturb the traffic or cause inconvenience to the public, which includes conducting "Homam", "Yaham" and prayers in public place and make gestures or utterances affecting the sentiments of any particular community or Religion/s and shall not indulge in any other activities causing air, water and noise pollution.

19. In the event of permission being granted, if the conditions stipulated for holding the demonstration are violated, it is always open to the machinery enforcing law and order to resort to the methods in accordance with law to prevent or contain the situation. It is also made clear that any particular organisation seeks the aid of the Court to do so, shall also be liable to be hauled for contempt of Court, if they indulge in activities affecting the public tranquillity, law and order and public order and create nuisance.

20. In so far as the permission sought for by the first respondent herein to conduct agitation on 06.12.2015 is concerned, admittedly no application has been filed so far and as when applications/representations are submitted, be dealt with in accordance with law and expeditiously.

21. It is to be pointed out at this juncture, religious and communal harmony is the need of hour and people professing faith in particular Religion/s shall be alive to the situation and should act reasonably and responsibly and they should always remember duty and responsibility comes first. This Court hope and trusts that the concerned persons should act with great responsibility for the betterment of this great Country.

22. In the result, the Writ Appeal is allowed and clause (3) and (4) of paragraph 16 of the order dated 04.12.2015 made in W.P.(MD) No.21423 of 2015, are set aside, subject to directions. Consequently, Miscellaneous Petitions in C.M.P.(MD) Nos.10717 and 10718 of 2016 are ordered and C.M.P.(MD) No.10716 of 2016 is closed. However, in the circumstances of the case, there shall be no order as to

the costs.