

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

WP No.19705 of 2021
and WMP (MD)Nos.16385 and 16386 of 2021

R.Sivamurugan Athithan

.. Petitioner

Vs.

1. Union Home Secretary,
Ministry of Home Affairs,
Government of India,
New Delhi.

2. Chief Secretary,
Government of Tamil Nadu,
St.George Fort, Chennai - 600 009.

3. Principal Secretary,
Health and Family Welfare Department,
Government of Tamil Nadu,
St.George Fort, Chennai - 600 009.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the Respondent No.2 pertaining to permitting Cinema Theatres and Multiplex to open with 100% seating capacity clause in the Impugned Order in Press Release No.931 dated 23.10.2021 published in the

website of the 2nd respondent and quash the same as threat to the life of the Public at large in the Pandemic situation and consequently direct the Respondent No.2 to close Cinema Theatres and Multiplex on 03.11.2021 and 04.11.2021 based on representations of the petitioner.

For the Petitioner : Mr.J.Antony Jesus
for Mr.Ramkumar Adityan.B

For the Respondents : Mr.P.Muthukumar
State Government Pleader

* * * * *

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner complains of the State's decision to open up cinema halls to 100 per cent seating capacity, despite the pandemic remaining such a threat. According to the petitioner, no standard operating procedure has been indicated in the impugned notification of October 23, 2021 for cinema halls or theatres to maintain as they open up completely.

2. To begin with, it must be said that courts would be slow in venturing into the administrative domain, particularly without any cogent adverse material against the impugned administrative action

being brought or demonstrated. There is no doubt that the pandemic has not gone away; the debate is still on whether only its tail is left. The recent numbers, despite the festive season, does not raise any alarm of an immediate third surge; though there is no room for any complacency in such regard.

3. Further, the vaccination drive continues unabated and, particularly in urban areas, those willing have obtained double vaccination and there are murmurs now of a booster third dose being applied.

4. In such a scenario, it is expected that the State Government would have taken the pros and cons into consideration before issuing the impugned notification and permitting cinema halls, theatres and like places to be opened up to the extent of 100 per cent of the seating capacity. There is a presumption in favour of the State that when it does something, it does upon taking into account relevant considerations.

5. The underlying objection of the petitioner is that the film industry or the theatre circles have been favoured ahead of others in the lockdown being completely lifted in respect of such industry. The petitioner points out that schools have not opened completely, midday meals are not in place and, as such questions the hurry in which the government has moved to make cinema halls open to the public. Unless the petitioner is able to bring some cogent material which demonstrates the adverse effect of the impugned administrative action, the court cannot go on the insinuation or the innuendo and interdict an administrative order passed by an appropriate authority.

6. As to the petitioner's complaint that no SOP for the purpose has been designed, it is evident that most places have almost fully opened up and the only protocol that is being insisted upon is to wear the mask and maintain the distancing norm. The impugned notification does not do away with the adherence to the Covid protocol at cinema halls and theatres. The fact that no special SOP has been devised for cinema halls and theatres is, thus, of no consequence.

WP (MD) No.19705 of 2021 is dismissed, but the State Government is requested to review the situation depending on the number of cases at a particular locality or city or town. There will be no order as to costs. WMP (MD) No.16385 and 16386 of 2021 are closed.

(S.B., CJ.) (P.D.A., J.)
08.11.2021

Index : no
sra

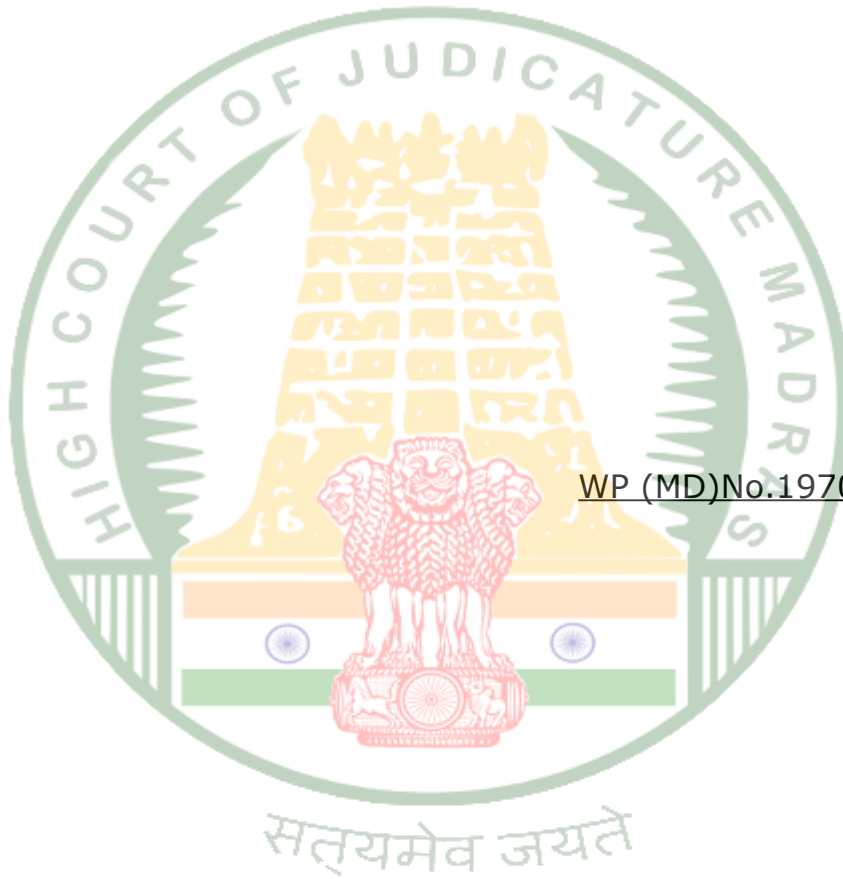
To:

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WP (MD) No.19705 OF 2021

THE HON'BLE CHIEF JUSTICE
AND
P.D.AUDIKEVALU, J.

(sra)



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