

W.P.(MD) No.16887 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2022

CORAM:

**THE HON'BLE MR.MUNISHWAR NATH BHANDARI, THE CHIEF
JUSTICE
and
THE HON'BLE MRS.JUSTICE S.ANANTHI**

W.P.(MD) No.16887 of 2022

R.Rajesh Kumar

... Petitioner

-VS-

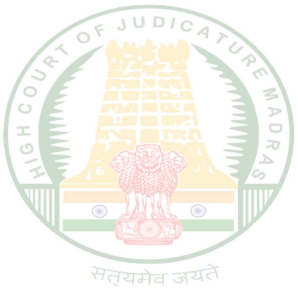
1.The State of Tamilnadu,
Represented by its Chief Secretary to Government,
Fort St.George,
Chennai – 600 009.

2.The Principal Secretary to Government,
Department of Youth Welfare and Sports,
Fort St.George,
Chennai – 600 009.

3.The Union of India,
Through its Secretary to Government,
Ministry of Youth Affairs and Sports,
New Delhi.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of declaration to declare the use of sole photograph of the Hon'ble Chief Minister of the State of Tamil Nadu in



W.P.(MD) No.16887 of 2022

WEB COPY

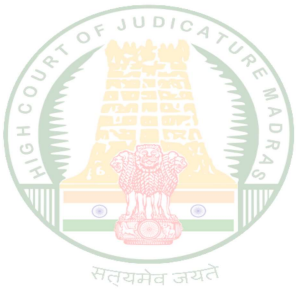
advertisement/promotion of the 44th Chess Olympiad scheduled to be held in Chennai, India from 28 July to 10 August 2022 as illegal, arbitrary and in violation of the directions issued by the Hon'ble Supreme Court in Common Cause v. Union of India, (2015) 7 SCC 1 and State of Karnataka v. Common Cause, (2016) 13 SCC 639 and consequently issue direction directing the first respondent to advertise/promote the 44th Chess Olympiad scheduled to be held in Chennai, India from 28 July to 10 August 2022 in terms of the directions issued by the Hon'ble Supreme Court in Common Cause v. Union of India, (2015) 7 SCC 1 and State of Karnataka v. Common Cause, (2016) 13 SCC 639 and include the photographs of the Hon'ble Prime Minister of India and Hon'ble President of India for the said advertisement/promotion.

For Petitioner : Mr.Aditya Dewan
for Mr.VR.Shanmuganathan

For Respondents : Mr.R.Shunmugasundaram,
Advocate General
assisted by Mr.P.Thilakkumar,
Government Pleader and
Ms.Shakeena,
Government Advocate for R1

Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.P.Thilakkumar,
Government Pleader for R2

Ms.L.Victoria Gowri,
Additional Solicitor General of India,
assisted by Mr.S.Jeyasingh,
Central Government Standing Counsel
for R3



W.P.(MD) No.16887 of 2022

WEB COPY

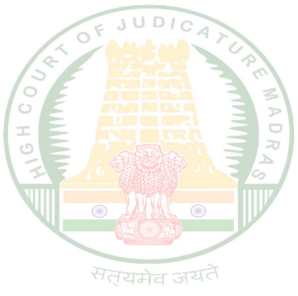
ORDER

[Order of the Court was made by The Hon'ble The CHIEF JUSTICE]

It is indeed a proud moment to cherish that the 44th Chess Olympiad organised by the Federation Internationale des Echecs [FIDE] is scheduled to be held in Chennai, India between 28th July, 2022 and 10th August, 2022. The event comprises open and women's tournaments as well as several events designed to promote the game of chess.

2. The Chess Olympiad was initially supposed to be held in Khanty-Mansiysk, along with the Chess World Cup 2019, but was moved to Moscow and scheduled to be held between 5th August, 2020 and 17th of August, 2020. Due to the pandemic, COVID-19, the tournament was postponed and finally the event was relocated to Chennai in India, following the invasion of Ukraine by Russia.

3. Our country was given the challenging task to organise the tournament involving more than 2000 participants from 186 countries



W.P.(MD) No.16887 of 2022

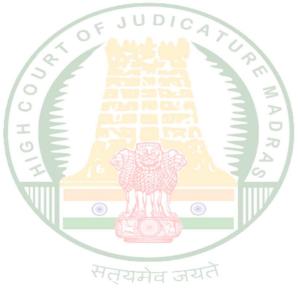
WEB COPY

within a short span of time. The arrangements have been made to host the Chess Olympiad with the inaugural function in Chennai and the tournament at Mamallapuram.

4. The grievance of the petitioner is that the advertisements published/flushed in various media only show the photograph of the Chief Minister of Tamil Nadu, whereas the photographs of the Hon'ble President of India and the Prime Minister should have also been published for the international event in Chennai.

5. It is despite the judgment of the Apex Court in the case of ***Common Cause v. Union of India, (2015) 7 SCC 1***, and the subsequent judgment in the case of ***State of Karnataka v. Common Cause, (2016) 13 SCC 639***, directing publication of photographs of the Hon'ble President of India and the Prime Minister.

6. In the first judgment supra, a direction was given about the applicability of the guidelines to all government advertisements other than classifieds and in all media of communication, including internet advertising.

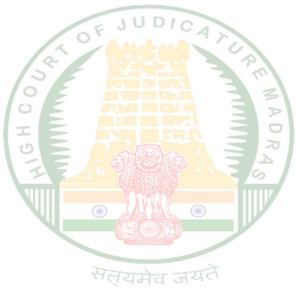


W.P.(MD) No.16887 of 2022

WEB COPY

The objective of the guidelines prepared by the Committee set up by the Apex Court was to emphasise the government's responsibility to disseminate information necessary for the public to know about the policies and programmes of the government. The Apex Court taking departure from the views of the Committee which recommended permissibility of publication of the photographs of the Hon'ble President and Prime Minister of the country and the Governor or Chief Minister of the State, held that there should be an exception only in the case of President, Prime Minister and Chief Justice of the country, who may themselves decide the question. The matter was closed by approving and adopting the recommendations of the Committee, except that which has been specifically indicated by the Apex Court.

7. According to learned counsel for the petitioner, the photographs of the Hon'ble President and the Prime Minister of India were not published in the advertisements for an international event scheduled to be held in Chennai. The photograph of only the Chief Minister of the State was published in all the media disregarding the judgment of the Apex Court in the case of ***Common Cause***, supra.

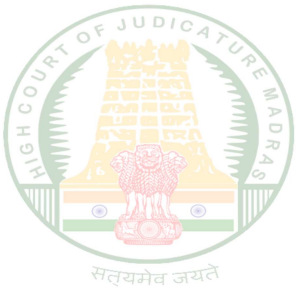


W.P.(MD) No.16887 of 2022

WEB COPY

8. The aforesaid is the cause for filing the present writ petition, because whenever an international event is scheduled in the country, it would not be an event of the State where it is hosted, but would be at the National level and, therefore, in no case, the prominence of the office of the President and the Prime Minister can be forgotten. It cannot be even for political reasons because what should weigh in the minds of the officer in the helm of the affairs is the interest of the nation, which is represented by the head of the executive, the Hon'ble President of India and the Prime Minister. In view of the aforesaid, a direction is sought to include the photographs of the the Hon'ble President and Prime Minister in all the advertisements in promotion of the event.

9. It is further stated that the advertisements are published using public money and thus the respondents should seek apology from the public for non-compliance of the judgment of the Apex Court in the case of **Common Cause**, supra, for having not published the photographs of the Hon'ble President and Prime Minister. He has also sought issuance of a further direction to the State to ensure that in future strict compliance of

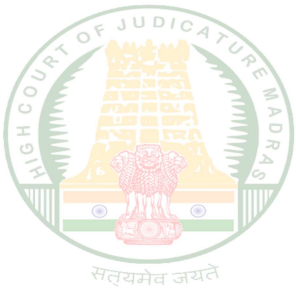


W.P.(MD) No.16887 of 2022

WEB COPY the judgment of the Apex Court in the case of **Common Cause**, supra.

10. Learned Advocate General, along with learned Additional Advocate General, submitted that the State Government never intended to exclude the publication of the photographs of the Hon'ble President or the Prime Minister of India in the advertisements. In fact, when the respondents were doing the groundwork for organizing the tournament and even to advertise in all the media, the Presidential elections were not concluded and, thus, they could not include the photograph of the Hon'ble President of India. Insofar as the non-publication of the photograph of the Prime Minister of India is concerned, the consent to inaugurate the function was given only on 22.7.2022. The photograph of the Prime Minister is published pursuant to his consent in all the advertisements. In support of the argument, a copy of the advertisement of international event, as published in the newspaper, has been produced. Thus, reason has been assigned for not initially incorporating the photograph of the Prime minister.

11. In any event, it is submitted that the State Government had never intended to flout the directives of the Apex Court and there is no ill-



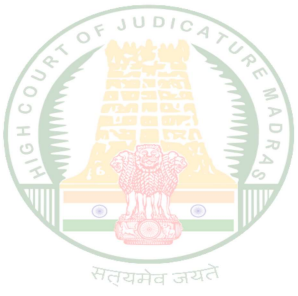
W.P.(MD) No.16887 of 2022

intention behind such non-publication. He, therefore, submitted that the writ petition should be rendered infructuous and be dismissed accordingly.

12. We have considered the rival submissions of the parties and perused the records.

13. Before addressing the arguments, we would like to say that the interest of the nation should be paramount importance in the mind of every citizen. International events hosted depict the image of the country in the international fora. It not only shows the development of the country, but its capability to organize an international event at such short notice. Keeping the aforesaid object in mind, every government should work, including the State Government.

14. The case on hand refers to an international event scheduled between 29th July, 2022 and 10th August, 2022, with the inaugural function on 28th July, 2022. When our country is hosting such an international event, it is the bounden duty of one and all to ensure that such function is organized efficiently and we leave an indelible mark at the international

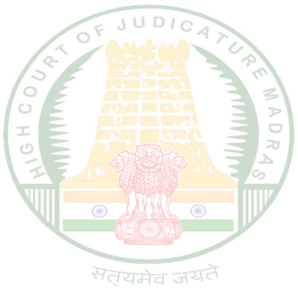


W.P.(MD) No.16887 of 2022

WEB COPY It is more so when our country is known for its hospitality and efficiency. Thus, the image of the nation should be of foremost concern to everyone and such representation, obviously, would be under the aegis of the Hon'ble President and Prime Minister of India, apart from the Chief Minister of the State, where the tournament is hosted.

15. The issue raised by the petitioner is that the advertisements published/flushed in the media do not contain the photographs of the Hon'ble President and the Prime Minister of India, despite it being an official function at the international level, organized using public money. The respondents were required to remain vigilant in implementing the directions of the Apex Court while publishing advertisements to promote the event. It should have been with the inclusion of the photographs of the Hon'ble President of India and the Prime Minister.

16. The reason assigned by the State Government that the Presidential elections were not concluded and, therefore, the photograph of the Hon'ble President of India was not published, cannot be accepted, because the advertisements were issued even after the declaration of the



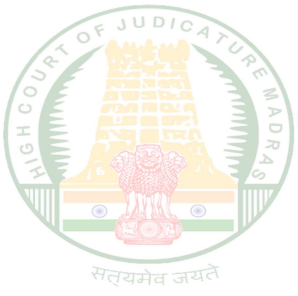
W.P.(MD) No.16887 of 2022

WEB COPY result of the Presidential elections without the photograph of the Hon'ble President of India.

17. The excuse taken by the respondents for non-publication of the photograph of the Prime Minister due to receipt of the consent from his office belatedly is also not acceptable. The photograph of the Prime Minister was required to be published even if he could not have inaugurated the event. What has to be noted here is that despite Parliament session, the Prime Minister has decided to inaugurate the function, considering the significance of the event at the international level.

18. Considering the national interest and the directives of the Apex Court in the case of **Common Cause**, supra, it should be ensured that even if the dignitaries like the Hon'ble President or the Prime Minister of India accept the invitation for an international event or not, the advertisements should contain their photographs, inasmuch as they represent the country at the international level.

19. For the reasons aforesaid, both the excuses taken by the State



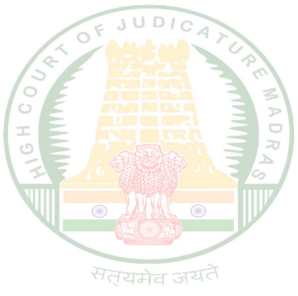
W.P.(MD) No.16887 of 2022

WEB COPY

Government cannot be accepted. It is however a fact that now the photographs of the Prime Minister are published in the advertisements to promote the international event. However, the photograph of the Hon'ble President still does not find place in any of the advertisements. The reason whatsoever can never be endorsed by this court in the light of the directives of the Apex Court.

20. In such view of the matter, we direct the State Government to ensure that the photographs of both the Hon'ble President and Prime Minister of India are published in all the advertisements - whether in print or electronic media, in relation to the Chess Olympiad. The State Government should take care that if any international event is hosted in the State, the directives issued in the case of **Common Cause**, supra, are adhered to *stricto sensu*, by including the names of the dignitaries as stipulated therein.

21. A prayer has been made to direct the State Government to seek apology from the public, inasmuch as public money is utilized for advertising the international event. We find realization of the mistake by the



W.P.(MD) No.16887 of 2022

WEB COPY

organizers and the best way to seek apology is to respect the sentiments of the public and make the international event a grand success by leaving an indelible mark of our nation at the international level.

22. We further make it clear that the district administration should ensure that no damage or destruction is caused to any of the advertisements published containing the photographs of the Hon'ble President and the Prime Minister, apart from the Chief Minister, and if any such activities are reported, strict action should be taken against such personnel.

The writ petition is disposed of accordingly. There will be no order as to costs.

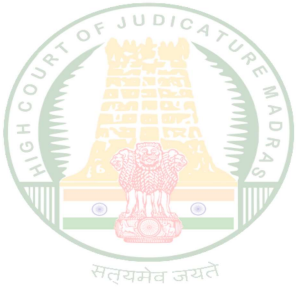
[M.N.B., C.J.] [S.A.I., J.]

28.07.2022

Index : Yes / No

Internet: Yes / No

sasi/pkn

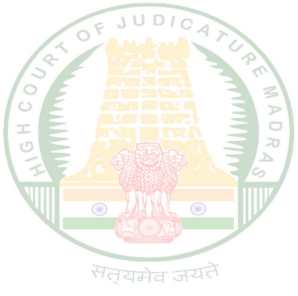


W.P.(MD) No.16887 of 2022

WEB COPY

To:

- 1.The Chief Secretary to Government,
The State of Tamilnadu,
Fort St.George,
Chennai – 600 009.
- 2.The Principal Secretary to Government,
Department of Youth Welfare and Sports,
Fort St.George,
Chennai – 600 009.
- 3.The Union of India,
Through its Secretary to Government,
Ministry of Youth Affairs and Sports,
New Delhi.



WEB COPY



W.P.(MD) No.16887 of 2022

THE HON'BLE THE CHIEF JUSTICE
and
S.ANANTHI, J.

(sasi/pkn)

W.P.(MD) No.16887 of 2022

28.07.2022