

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2022

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18554 of 2022

P.Seeni

... Petitioner

v.

- 1.The District Collector, Virudhunagar,
Virudhunagar District.
- 2.The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.
- 3.The Tahsildar, Thiruchuzi Taluk,
Virudhunagar District.
- 4.The Deputy Superintendent of Police,
Aruppukottai, Virudhunagar District.
- 5.The Inspector of Police,
Thiruchuzhi Police Station,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to consider the petitioner's representation dated 09.08.2022 and give permission to conduct pongal festival events for two days from 19.08.2022 to 20.08.2022 in Sri Rajakalai Amman Temple and Pattathu Amman Temple in Valayapatti Village, Thiruchuzhi Taluk, Virudhunagar District.



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For Petitioners : Mr.M.Karthikeyavenkitachalapathy

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The prayer in the writ petition is for directing the authorities to permit the villagers in question to conduct the petition mentioned temple festival. It is seen that on account of non-cooperation from the temple priest, the issue is hanging fire.

3.I wanted to know from the counsel on either side if there is any legal provision which mandates that the villagers must obtain prior permission for conducting their age old temple festivals. My attention was not drawn to any specific provision as such.

4.The Constitution of India confers certain fundamental rights. Article 19(1)(b) states that all citizens shall have the right to assemble peaceably and without arms. Article 25 (1) states that subject to public order, morality and health and to the other provisions of Part III, are persons are equally entitled



to freely practice religion. The Hon'ble Supreme Court of India in ***Gulam***

Abbas v. State of U.P (AIR 1981 SC 218) held that religious faith and the

performance of the rites, customary practices and observances constitute

one's fundamental rights guaranteed under Articles 25 and 26 of the

Constitution of India. This judgment was followed by the Division Bench of

the Madras High Court ***(2021 SCC Online Mad 1779/WA No.743 of***

2019). A learned Judge of this Court in ***WP No.6986 of 2018*** dated

23.03.2018 held that centuries old custom and religious practices cannot be

ignored or found as insignificant, since such customs privileges and practices

go with the sentiment of the people of the locality and the Government

machinery cannot interfere in a casual manner under mere apprehension. If

some untoward incidents had taken place in the past, interference can only be

by way of regulatory measure. The event itself cannot be banned or

prohibited. Administrative inconvenience or anticipated incidents may not be

cited as the reason to stop established customs and practices.

5. Section 42-A of the Tamil Nadu District Police Act, 1859 which

provides for the presence of police personnel in any public meeting or

assembly or procession states that this requirement will not apply to any

assembly or meeting of a purely religious character held in a recognized place

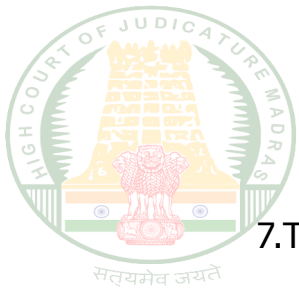
of worship. Section 41 of the Chennai City Police Act which contains the



power to regulate assemblies, meetings and processions in public places etc.,

in sub section 8 states that nothing in the Section shall apply to any assembly or meeting of a purely religious character held in a recognized place of worship. This provision was the subject matter of reference under Section 438 (2) of the old Cr.Pc before the Division Bench of the Madras High Court in ***AIR 1959 Mad 63 (C.N.Annadurai v. State)***. When the learned counsel appearing for the accused argued that the provision was discriminatory and violative of Article 14, the Hon'ble Division Bench held that the exemption granted to marriages, funerals and religious assemblies would constitute reasonable classification. The Hon'ble Division Bench held that religious meetings can be held without taking any permission at all.

6.Of course, the authorities cannot remain a silent spectator if there is breach of public tranquility. If threat to maintenance of law and order is imminent, then also the executive magistrate or the police are bound to intervene. So long as there is no such situation, the authorities have no role in the matter. The scope of this writ petition is confined to a festival that has been celebrated from time immemorial every year in a village. Since the writ prayer is for directing the authorities to grant permission, I hold that no such permission is required.



7.The writ petition is disposed of accordingly. No costs.

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16.08.2022

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Issue order copy on 17.08.2022

To

- 1.The District Collector, Virudhunagar,
Virudhunagar District.
- 2.The Revenue Divisional Officer,
Aruppukottai, Virudhunagar District.
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G.R.SWAMINATHAN, J.

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