



WP (MD) No. 25439 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	Pronounced on
17.11.2022	02.12.2022

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

Writ Petition (MD) No. 25439 of 2022

M.Seetharaman

.. Petitioner

Versus

1. The Commissioner,
Hindu Religious and Charitable Endowment Department
Uthamar Gandhi Road
Nungambakkam,
Chennai.

2. The Executive Officer / Joint Commissioner,
A/m. Subramaniya Swamy Temple
Tiruchendur,
Thoothukudi District.

.. Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus directing the respondents to take effective measures to prohibit the possession and usage of Android Cell Phones inside the Sri Subramania Swamy Temple, Tiruchendur, Thoothukudi District.

For Petitioner : Mr. M.C.Swamy

For Respondents : Mr. P.Subbaraj, SGP (R1)
Mr. M.Muthugeethayan, standing counsel (R2)



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ORDER

WEB C R. MAHADEVAN, J.

The petitioner has filed this writ petition in the nature of public interest litigation, seeking to issue a Writ of Mandamus directing the respondents to take effective measures to prohibit the possession and usage of android cell phones inside the premises of Arulmigu Subramaniya Swamy Temple, Tiruchendur, Thoothukudi District.

2. In the affidavit filed in support of this writ petition, the petitioner has stated that Sri Subramaniya Swamy Temple, Tiruchendur is one of the six abodes of the deity Lord Muruga, which is thronged by devotees in large numbers. For the purpose of offering poojas, there are three groups of Archagars in the temple viz., (i) Pothies (ii) Sivachariyars and (iii) Thiri Sudhanthirargal. The petitioner is one of the Thiri Sudhanthirargal serving in the temple. It is further stated that the second respondent permits free dharshan at a specified time, besides worship on payment. Since the subject temple is an ancient temple, for free and peaceful dharsan, the usage of camera to videograph or photograph the Deeparthanai, Poojas and other rituals in the temple, including the idols therein is a hindrance. However, now-a-days all the devotees are in possession of mobile phones and they take photographs or videographs within the premises of the temple, without any restrictions.



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WEB COPY Taking photographs of the valuable idols is not only contrary to the Agama Rules, but also endangers the security of the temple and its valuables, according to the petitioner. The staff of the temple finds it as a mammoth task to prohibit or prevent the devotees from either taking photograph or videograph of the deity, idols or other rituals. It is the apprehension of the petitioner that there are probable opportunities for taking photographs of women devotees, without their consent, which will be misused. Pointing out the same, the petitioner submitted a representation dated 21.09.2022 to the respondents requesting to impose a ban on possessing and using the mobile phones inside the premises of the temple, but the same has not been considered till date. Therefore, the petitioner is before this court with the present public interest litigation.

3.Citing the prohibition and the procedure adopted in Arulmigu Meenakshi Sundaraswarar Temple, Madurai, the learned counsel for the petitioner submitted that the respondents may be directed to take action by prohibiting the possession and usage of the cell phones inside the premises of the temple as a measure of protecting the religious sanctity and safety. The learned counsel further submitted that in Arulmigu Meenakshi Sundaraswar Temple, Madurai, separate locker rooms are provided outside the temple, where the cell phones of the devotees will be kept until they offer prayers to



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the presiding deity and come back after dharshan. Hence, the learned counsel prayed for appropriate direction to the respondent authorities to follow the same in the subject temple as well.

4. On the above submissions, we have heard the learned counsel appearing for the respective respondents.

5. The subject temple viz., Arulmigu Subramaniya Swamy Temple, Tiruchendur, as described by various texts, is one of the six abodes of Lord Muruga. It is an ancient temple situated on the shores of Bay of Bengal. Unlike other temples, it was built by three holy saints and the sanctum sanctorum of the same is below the ground level. The 133 feet Rajagopura situated in the western gate, is an architectural excellence of the temple. Normally, thousands of people visit the temple every day and the same increases during the special days / festive times, viz., Vaikasi Visagam, Avani Festival, Skanda Sasti, Masi Festival, etc. During that time, the temple authorities face difficulties in handling the devotees / public who visit the temple for dharshan.

6. It is the grievance of the petitioner that using cell phones by the people / devotees inside the premises of the subject temple, causes inconvenience to



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others and affects the purity of the deity, besides endangering the safety of the devotees and security of the temple and its valuables. Therefore, the respondent authorities will have to take steps to prohibit the usage of cell phones inside the premises of the temple, so as to preserve the sanctity and security of the temple, apart from ensuring safety of the devotees.

7.As a matter of fact, it is pertinent to note that temples are great institutions and they have traditionally been central to every one's life. It is not only a place of worship, but also integral to the socio - cultural and economic life of people. It is a living tradition that still draws hundreds of thousands of devotees seeking to experience divinity and spirituality offered by the temple. The systems and structures which support this experience, make a temple to have its own management needs.

8.There cannot be any dispute that under Article 25 of the Constitution, all persons are entitled to freely profess, practice and propagate religion. However, such freedom to act and practise can be subject to regulations, inside the premises of the temple. The Agamas prescribe the rules regarding the rituals to be followed in the worship services at the temple. According to the same, the temple authorities should ensure that decency of worship and sanctity of temple is maintained. Therefore, the usage of mobile phones and



cameras inside the premises, which diverts the attention of the devotees from the purpose of visiting the temple, can be regulated by the authorities concerned.

9. Section 4 of the Tamil Nadu Temple Entry Authorization Act, 1947 empowers the trustees or any authority in-charge of the temple to make regulations for the maintenance of order and decorum in the temple. For better appreciation, the said provision is extracted below:

"4. Powers of trustees to make regulations for the maintenance of order and decorum, the due performance of rites and ceremonies in temples.—

The trustee or other authority in charge of a temple shall have power, subject to the control of the State Government and to any rules which may be made by them, to make regulations for the maintenance of order and decorum in the temple and the due observance of the religious rites and ceremonies performed in the temple, but such regulations shall not discriminate in any way against any Hindu on the ground that he belongs to a particular caste or sect."

10. The Rules under the Tamil Nadu Temple Entry Authorization Act, 1947 also prescribe certain code of conduct for maintenance of order and decorum in the temple, apart from the regulations made by the trustee or authority as the case may. For instance, Rule 5 prohibits chewing or spitting tobacco/smoking and any other act which tends to derogate from the purity and cleanliness of the temple and its premises; and Rule 6 prohibits loud conversations and demonstrations interrupting the worship in a temple.



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Further, Rule 8 prohibits the usage of temple buildings and premises unconnected with or not arising from the worship, usage and observations of such temples. At the same time, the rules also impose an embargo upon the executive authority (the trustee or authority in charge of the temple, as the case may be) under Rule 9 which provides that regulations shall not be in such a way as to prejudicially affect the rights and facilities which worshippers had generally exercised.

11. In this context, it would be apropos to refer to the decision in *Nar Hari Sastri and others v. Shri Badrinath Temple Committee [AIR 1952 SC 245]*, wherein, the Hon'ble Supreme Court while dealing with the right of pandas (guides) accompanying pilgrims and receiving gifts from them in the precincts of the Badrinath temple, Puri, observed thus:

“23. This right of entry into a public temple is, however, not an unregulated or unrestricted right. It is open to the trustees of a public temple to regulate the time of public visits and fix certain hours of the day during which alone members of the public would be allowed access to the shrine. The public may also be denied access to certain particularly sacred parts of the temple, e.g. the inner sanctuary or as it is said the Holy of Holies where the deity is actually located. Quite apart from these, it is always competent to the temple authorities to make and enforce rules to ensure good order and decency of worship and prevent overcrowding in a temple. Good conduct or orderly behavior is always an obligatory condition of admission into a temple (Vide Kalidas Jivram v. Gor Parjaram, I.L.R. 15 Bom. p. 309 : Thackersay v. Harbhun, I.L.R. 8 Bom. p. 432, and this principle has been accepted by and recognised in the Shri Badrinath Temple Act, section 25 of which provides for framing of bye-laws by the temple committee inter



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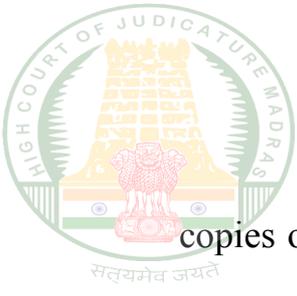
alia for maintenance of order inside the temple and regulating the entry of persons within it.”

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12. Such being the position of law, it is noteworthy to mention here that ban on mobile phones has been introduced and successfully implemented in temples across the country to prevent nuisance to devotees. The Sri Krishna Temple at Guruvayur, Meenakshi Amman Temple at Madurai and Sri Venkateshwara Temple at Tirupati are few examples where ban on mobile phones is in force effectively. There are separate security counters in each of these temples to deposit mobile phone before entering the premises. Therefore, this court is of the opinion that similar steps can be taken in the subject temple viz., Arulmigu Subramaniya Swamy Temple, Tiruchendur, as well by creating safety deposit counters for mobile phones and preventing the usage of cell phones inside the premises, to maintain decorum and sanctity of the temple.

13. At this juncture, the learned counsel for the second respondent has brought to the notice of this court that as directed by this court, the second respondent has considered and taken steps to impose restrictions for usage of cell phones by the priest, devotees, public and others inside the temple; appoint self-help groups to supervise the usage of cell phones; and set up security counters for deposit of cell phones. To that effect, a report dated

<https://www.mhc.tn.gov.in/> 16.11.2022, was filed on the side of the second respondent, enclosing the



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copies of communication sent to the Superintendent of Police and the District

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Collector of Thoothukudi District. The relevant passage of the same, is

reproduced below:

"இத்திருக்கோயிலுக்கு வரும் பக்தர்களின் கைபேசியை தடை செய்யக்கேட்டு திருச்செந்தூரைச் சேர்ந்த திருசீதாராமன் என்பவரால் தாக்கல் செய்யப்பட்ட வழக்கில் மாண்புமே நீதிமன்றத்தால் 09.11.2022 அன்று பிறப்பிக்கப்பட்ட உத்தரவின்படி திருக்கோயில் மூலம் எடுக்கப்பட்ட நடவடிக்கைகள் குறித்தான அறிக்கை பின்வரும் விவரப்படி தொரிவிக்கப்படுகிறது.

1) 14.11.2022 முதல் பக்தர்கள், திருக்கோயில் பணியாளர்கள், திரிகதந்திரர்கள் உட்பட கைபேசியை திருக்கோயிலுக்குள் கொண்டு செல்ல தடைவிதிக்கப்பட்டு நடைமுறைப்படுத்தப்பட்டிருள்ளது.

2) கைபேசி பாதுகாப்பகம் திருக்கோயில் வளாகத்தில் உள்ள காவடி மண்டபத்தில் ஒதுக்கீடு செய்து 300 செல்போன்கள் வைக்கும் அளவிற்கு பெட்டகங்கள் மற்றும் டோக்கன் கொள்முதல் செய்வதற்கு நடவடிக்கை எடுக்கப்பட்டு வருகிறது.

3) திருக்கோயில் வளாகங்களில் பதினைந்து இடங்களில் திருக்கோயிலுக்குள் கைபேசி கொண்டு செல்ல தடை விதிக்கப்படுகிறது எனவும், மீறி கொண்டு செல்படுவது கண்டறியப்பட்டால் பறிமுதல் செய்யப்படும் எனவும், செல்போன் திரும்பி வழங்கப்படமாட்டாது விளம்பர பலகைகள் வைக்கப்பட்டுள்ளது.

4) திருக்கோயிலுக்கு வரும் பக்தர்கள் நமது பண்பாட்டு மரபினை காக்கும் வகையில் உடைஅணிந்து வரவேண்டும் என திருக்கோயில் வளாகங்களில் பதினைந்து இடங்களில் விளம்பர பலகைகள் வைக்கப்பட்டுள்ளது.

5) திருக்கோயிலுக்குள் கைபேசி கொண்டு செல்ல தடை விதிக்கப்படுகிறது எனவும், மீறி கொண்டு செல்படுவது கண்டறியப்பட்டால் பறிமுதல் செய்யப்படும் எனவும் செல்போன் திரும்பி வழங்கப்படமாட்டாது எனவும், திருக்கோயில் ஒலி பெருக்கி மூலம் தினசரி தொடர்ச்சியாக ஒலிபரப்பு செய்யப்பட்டு வருகிறது.



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6) பக்தர்கள் திருக்கோயில் பணியாளர்கள், திரிசுதந்திரர்கள் பாதுகாப்பு பணியாளர்கள் உட்பட கைபேசியை திருக்கோயிலுக்குள் கொண்டு செல்வதை தடை செய்யவும். திருக்கோயிலுக்கு வரும் பக்தர்கள் தமது பண்பாட்டு மரபினை காக்கும் வகையில் உடைஅணிந்து வருவதை கண்காணிக்கவும். மகளிர் சுய உதவிக்குழு உறுப்பினர்களை நியமனம் செய்து வழங்க கேட்டு திருக்கோயில் மூலம் 11.11.2022 குறிப்பு மூலம் தூத்துக்குடி மாவட்ட ஆட்சித்தலைவருக்கு கடிதம் அனுப்பப்பட்டுள்ளது (நகல் இணைக்கப்பட்டுள்ளது)

7) பக்தர்கள் திருக்கோயில் பணியாளர்கள், திரிசுதந்திரர்கள், பாதுகாப்பு பணியாளர்கள் உட்பட கைபேசியை திருக்கோயிலுக்குள் கொண்டு செல்வதை தடை செய்யவும், திருக்கோயிலுக்கு வரும் பக்தர்கள் தமது பண்பாட்டை மரபினை காக்கும் வகையில் உடை அணிந்து வருவதை கண்காணிக்கவும் திருக்கோயில் நான்கு வாயில்கள் மற்றும் கைபேசி பாதுகாப்பு வைப்பறையில் பாதுகாவலர்கள் நியமனம் செய்து வழங்க கேட்டு திருக்கோயில் மூலம் 11.11.2022 குறிப்பு மூலம் தூத்துக்குடி மாவட்ட காவல் கண்காணிப்பாளருக்கு அனுப்பப்பட்டுள்ளது (நகல் இணைக்கப்பட்டுள்ளது)"

14. In the light of the aforesaid report, which discloses that the second respondent has already taken all effective measures for ban on mobile phones, decent dress code, etc. inside the premises of the subject temple, this court directs the respondent authorities to implement the aforesaid conditions in letter and spirit, besides directing the Superintendent of Police and the District Collector of Thoothukudi District, to accede to the request made by the second respondent.



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16. With the aforesaid directions, this writ petition stands disposed of.

No costs.

(R.M.D., J.) (J.S.N.P., J.)
02.12.2022

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Index : Yes / No

Internet : Yes / No

To

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Pre-delivery order in
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