

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT

THE HONOURABLE MR.JUSTICE VIJU ABRAHAM

Monday, the 22nd day of January 2024 / 2nd Magha, 1945

WP(C) NO. 2659 OF 2024

PETITIONER:

ERNAKULAM SIVAKSHETHRAM, COCHIN DEVASWOM, BOARD, ULSAVAGHOSHA COMMITTEE – 2024, (ADHOC COMMITTEE CONSTITUTED FOR CONDUCTING THE ANNUAL FESTIVAL OF 1199ME (2024) IN ERNAKULAM SIVA TEMPLE,), ERNAKULAM SIVA TEMPLE, DURBAR HALL ROAD, MARINE DRIVE, ERNAKULAM, KOCHI REPRESENTED BY ITS SECRETARY, R RAMAKRISHNAN, S/O V.M. RAMASWAMY, AGED 67 YEARS, 39/2715B, SREERAMA VILAS, WARRIYAM ROAD, ERNAKULAM, KOCHI, PIN- 682011

RESPONDENTS:

1. STATE OF KERALA, REP. BY ITS CHIEF SECRETARY SECRETARY TO THE GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN- 695001
2. THE DISTRICT COLLECTOR (DISTRICT MAGISTRATE) ERNAKULAM, COLLECTORATE, KOCHI, PIN- 682030

Writ Petition (Civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to direct the 2nd respondent to issue fresh orders granting licence consequent to Ext. P6 application and permit the petitioner to display fireworks on 22.01.2024 and 24.01.2024 in connection with valiya vilakku and Arattu at Ernakulam Siva Temple, pending disposal of the above writ petition

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. K.ANAND, BENNY ANTONY PAREL & AMEER SALIM, Advocates for the petitioner, the court passed the following:

VIJU ABRAHAM, J

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Dated this the 22nd day of January, 2024

ORDER

Admit.

2. The learned Government Pleader takes notice for respondents.

3. Petitioner seeks for an interim order directing the 2nd respondent to issue fresh orders granting licence consequent to Ext.P6 application and permit the petitioner to display fireworks on 22.01.2024 and 24.01.2024 in connection with *valiya vilakku* and *Arattu* at Ernakulam Siva Temple.

4. Petitioner submits that the Ernakulam Siva Temple is one of the major temples in Kerala and on the day of Valiya Vilakku, ie., on 22.01.2024, Pakalpooram is conducted which is followed by the Arattu day on 24.1.2024 at early morning 3 AM, display of fireworks is carried out, as a part of the practice and custom. Petitioner further averred that the Ernakulam Shethra Kshema Samithy, in order to identify the hazards and associated risks involved in the fireworks display site,

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conducted a quantitative risk assessment study through an agency named EPINOX Prompt Consulting Engineers Private Limited. The said agency submitted a report dated 29.12.2017, which narrates the fireworks display sites to be safe for its performance. During the year 2019, necessary licence was issued by the 2nd respondent, as is evident from Ext.P1. But for the year 2020 the application was rejected by the 2nd respondent. Thereupon, the petitioner approached this Court and a division bench of this Court as per Ext.P2 interim order dated 05.02.2020 directed the 2nd respondent to issue permission by granting licence to conduct fireworks display. For the year 2023 also the application was rejected by Ext.P3 wherein also this Court intervened and as per Ext.P4 interim order directed the 2nd respondent to grant necessary permission for display and conduct of fireworks in temple for *valiya vilakku* and *Arattu*. Petitioner further submits that though restrictions were imposed by the judgment of the learned single judge of this Court in WP(C)

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No.1550 of 2015 dated 3.11.2023, a division bench of this Court had interfered with the said order in WA No.1935 of 2023 and held that as regards the ban of the use of fireworks before 10 pm and 6 am, the State Authorities could pass specific orders granting exemption to any particular religious place covered by the observations made by the Apex Court's interlocutory order dated 26.3.2007 in *IN Re:Noise Pollution - Implementation of the Laws for Restricting use of Loudspeakers and High Volume Producing Sound System*. In spite of all these, for this year also Ext.P6 application submitted by the petitioner was rejected by Ext.P7, stating the very same reasons stated for rejecting the application earlier. A perusal of Ext.P7 reveals no fireworks of huge blasting power in use as part of the festival. Yet another aspect to be considered is that though petitioner has submitted Ext.P6 application as early as on 31.12.2023, the application was kept pending by the 2nd respondent till 20.1.2024 and has rejected the same as per Ext.P7, dis-entitling the

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petitioner to approach this Court within a reasonable time. Though the petitioner has submitted the list of fireworks display items for the festival to be held on 06.01.2024 to 12.01.2024, petitioner submits that they will restrict the use of fireworks to the extent as permitted by the division bench of this Court in Ext.P2 order, ie:

22.01.2024

- 1.Ola Padakkam - One lakh numbers
- 2.Thukalan - 200 Nos
- 3.Chinese Crackers - 10 packets
- 4.Mathappu - 5 kilograms

24.01.2024

- 1.Ola Padakkam - One lakh twenty five thousand numbers
- 2.Thukalan - 300 Nos
- 3.Chinese Crackers - 5 packets
4. Mazhathoranam - 150 Nos
- 5.Mathappu - 10 kilograms

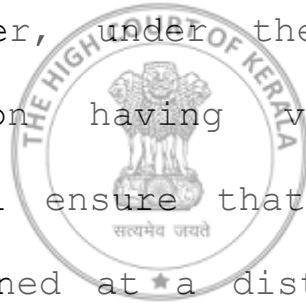
5. Heard the learned Government Pleader also.

6. Taking into consideration the fact that though very same reasons have been stated earlier for rejecting the application, division bench of this Court as per Ext.P2 and the learned single judge as per Ext.P4 has directed the 2nd respondent

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to issue necessary permission to conduct fireworks display for earlier years, I am inclined to pass an interim order in the nature of Exts.P2 and P4. Therefore, there will be a direction to the 2nd respondent to issue necessary permission for conduct of the fireworks display on 22.01.2024 and 24.01.2024 in connection with the *valiya vilakku* and *Arattu* at Ernakulam Siva Temple using only the item specifically mentioned in paragraph 4 of this order, under the supervision of a competent person having valid licence. The petitioner shall ensure that the magazine/store room is maintained at a distance of 200 metres from the site of the display. The authorities under the Revenue Department, Fire Safety Department and the Police Department shall deploy competent officers to ensure that fireworks are conducted strictly in accordance with the licence, without violating the conditions and using only the items permitted in this interim order. Needless to say that before the commencement of the fireworks display, barricade shall be put up



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at a distance of 100 metres from the fireworks display point on all sides. No one shall be permitted to enter into the said prohibited area, that is, 100 metres, except the persons who are performing the fireworks display.

Post after a week.

Sd/-

**VIJU ABRAHAM,
JUDGE**

Hand over/-

pm



APPENDIX OF WP(C) 2659/2024

Exhibit P6

**TRUE COPY OF THE APPLICATION ALONG WITH REQUISITE
DOCUMENTS SUBMITTED BY THE PETITIONER BEFORE THE 2ND
RESPONDENT DATED 31.12.2023**

