

W.P.(MD) Nos.5036 of 2021 & 3663 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On	02.03.2022
Pronounced On	04.03.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P. (MD) Nos.5036 of 2021 & 3663 of 2022

and

W.M.P. (MD) Nos.4055 of 2021 & 3371 of 2022

(Through Video Conferencing)

W.P. (MD) No.5036 of 2021

D.Balasubramanian

... Petitioner

Vs.

- 1.The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam, Chennai – 34.
- 2.The Joint Commissioner,
HR & CE Department,
Srinivasa Nagar, Tiruvanaikovil,
Trichy – 5, Trichy District.
- 3.The Executive Officer, (EO),
(For TM025868 – Achiramavalli Amman
Kovil – Jengamarajapuram),
Lalgudi, Lalgudi Taluk, Trichy District.
- 4.The Trustee (Thakkar),
Arulmigu Achiramavalli Amman Kovil,



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Jengamarajapuram,
Lalgudi Taluk, Trichy District.

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5.The Tahsildar,
Taluk Office,
Lalgudi, Trichy District.

6.Prabhu Nambiappan

... Respondents

Writ Petition filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to fourth respondent proceedings made in Na.Ka.No.1/2021, dated 26.02.2021, quash the same and direct the second to fourth respondents herein to conduct the car festival of Arulmighu Achiramavalliamman Temple, Jangamarajapuram, Lalgudi Taluk, Trichy District, in the light of direction issued by the Division Bench of this Court in order made in W.A. (MD) No.381 of 2020, dated 10.03.2020.

For Petitioner : Mr.R.Sundar

For R1, R2 & R5 : Mr.P.Subbaraj,
Special Government Pleader

For R3 & R4 : Mr.P.Thiyagarajan

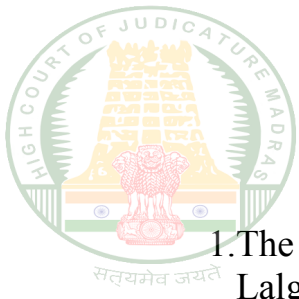
For R6 : M/s.Susanna Prabhu

W.P. (MD) No.3663 of 2022

Prabhu Nambiappan

... Petitioner

Vs.



W.P.(MD) Nos.5036 of 2021 & 3663 of 2022

1.The Revenue Divisional Officer,
Lalgudi Taluk, Poovalur Road,
Lalgudi - 621 703.

2.The Tahsildar, Taluk Office,
Paramasivapuram,
Lalgudi – 621601.

3.The Deputy Superintendent of Police,
Paramasivapuram, Lalgudi – 621601.

4.The Executive Officer, (EO),
(For TM025868 – AM Achiramavalli Amman
Koil – Jengamarajapuram),
Lalgudi Taluk, Trichy.

5.Balasubramaniam

... Respondents

Writ Petition filed for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the order dated 04.02.2022 issued by the first respondent vide proceedings Na.Ka.A1/0173/2021, banning the Maasi Month Temple Car Festival of Arulmigu Achiramavalli Amman Temple, Jengamarajapuram, Lalgudi Taluk, Trichy and to quash the same and consequently to direct the fourth respondent to conduct the temple car festival without any interruption.

For Petitioner : M/s.Susanna Prabhu

For R1 to R3 : Mr.P.Subbaraj,
Special Government Pleader

For R4 : Mr.P.Thiyagarajan

For R5 : Mr.R.Sundar



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COMMON ORDER

By this common order, both Writ Petitions are being disposed

W.P.(MD)No.5036 of 2021

2. The petitioner has prayed for quashing the impugned order / proceedings of the fourth respondent, the Trustee / Thakkar, dated 26.02.2021 bearing reference Na.Ka.No.1/2021.

3. By the impugned order / proceedings dated 26.02.2021, the fourth respondent had decided to conduct the temple festival in Aachiramavalli Amman Temple, Jengamarajapuram, Lalgudi Taluk, Trichy during 2021 by stating that there was no discrimination between the members of different communities when the temple festival was conducted during 2020 as all persons including persons belonging to the Schedule Caste Adi Dravidar Community were allowed to participate in the temple festival without discrimination.

4. The fourth respondent Trustee / Takkar has also stated that the request of the persons belonging to Schedule Caste Adi Dravidar



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community for bringing the Temple Car through the streets than the regular path, cannot be accepted by the management of the temple.

5. It is submitted that the temple festival in the aforesaid temple had remained suspended from 1994 and Mr.Prabhu Nambiappan, who is the petitioner in W.P.(MD)No.3663 of 2022 had earlier filed W.P.(MD)No.3582 of 2020 for the permission to conduct the temple festival. The temple festival which was in hibernation from 1994 was sought to be revived in terms of the order dated 26.02.2020 of this Court in the said W.P.(MD)No.3582 of 2020. The learned Single Judge of this Court allowed the said W.P.(MD)No.3582 of 2020 with the following observations:-

6. The festival of this nature touches upon the sentiments of the people. Hence, the third respondent is directed to ensure that the festival is conducted periodically without stopping it for unnecessary reasons. As the dates in this regard starts from 10.03.2020 to 13.03.2020, the third respondent is also directed to take immediate action for the conduct of the above said festival. The third respondent is at liberty to avail any police protection if necessary for the conduct of the said festival.



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WEB COPY 6. The petitioner in W.P.(MD)No.5036 of 2011, as a third party, filed W.A.(MD)No.381 of 2020 before the Division Bench of this Court against the aforesaid order dated 26.02.2020 in W.P.(MD)No.3582 of 2020 of the learned Single Judge. After noting the rival submissions of the respective petitioners herein, the Division Bench disposed W.A. (MD)No.381 of 2020 with the following observations:-

7.To create a conducive atmosphere, which may also pave way for celebrating the festival with the full participation of all communities and to avoid any one to feel that they are discriminated, the learned Counsel for the first respondent also agreed that this year festival can be celebrated by taking the temple car through any one of the streets suggested by the appellant and approved by the Executive Officer of the temple.

8.The learned Single Judge has directed the fourth respondent in this appeal to ensure that the festival is conducted periodically without stopping it for unnecessary reasons. The fourth respondent was further directed to take immediate action for the conduct of the said festival with liberty to avail police protection, if necessary for the smooth conduct of the festival. This Court do not interfere with the order of the learned Single Judge in any respect. However, the Executive Officer is directed to get the suggestion of the appellant to take the car to any one of the streets, wherein the appellant's



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community people are living, this year to promote harmony and spread common brotherhood among the people living in the village. Out of the few streets that may be suggested by the appellant, it is open to the Executive Officer to take a decision to take the car through any one of the streets giving minimum of two hours time for the temple car to travel through the street on any day of the festival.

9. With these observations, this Writ Appeal is disposed of. It is open to the appellant to approach the authorities under HR & CE Department in terms of Section 25 of HR & CE Act 1959 to seek appropriate relief for taking the temple car through any of the few streets of appellant's community in future. When such request is made, the same shall be decided under the Act, after giving opportunity to the first respondent as well as any other persons who are interested. The authorities shall take a decision keeping in mind that untouchability is abolished and its practice in any form is forbidden under Article 17 of Constitution of India.

10. The conduct of the festival should be in tune with a decision that may be taken by the HR & CE Department from next year. This order is passed by consent of both parties and this consent is for this year and it shall not take as precedent, as we have not considered the issues that are raised or may be raised by other people, who are interested in the matter. No costs. Consequently, connected miscellaneous petition is closed.



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7. Pursuant to the above order of the Division Bench of this Court,

WEB COPY the petitioner in W.P.(MD)No.5036 of 2011 claims to have filed a petition under Section 25 of the H.R. & C.E. Act, 1959 on 14.10.2020 before the second respondent Joint Commissioner, H.R. & C.E. Department. It is specific case of the petitioner in W.P(MD)No.5036 of 2011 that said petition filed by the petitioner is yet to be disposed by the second respondent Joint Commissioner, H.R. & C.E. Department.

8. Appearing on behalf of the petitioner, the learned counsel submits that the second respondent Joint Commissioner issued a notice dated 04.02.2021 to the four persons including the petitioners in both these Writ Petitions to appear before the second respondent Joint Commissioner on 09.02.2021 at 11.00 a.m. for enquiry in respect of the petition filed by the petitioner in W.P.(MD)No.5036 of 2021.

9. It is submitted that an enquiry was conducted on 09.02.2021, 10.02.2021 and 11.02.2021 by the second respondent Joint Commissioner. The second respondent Joint Commissioner has passed an order dated 12.02.2021. By the aforesaid order, the second respondent Joint Commissioner opined that as the request of the petitioner relates to



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the sentiments of the people and management of the temple is a separate division, the management of the temple may take decision after getting suggestions and objections of the public by issuing a general notice.

10. Pursuant to the above direction, the third respondent Executive Officer of the temple issued a general notice dated 12.02.2021 fixing the date for eliciting opinion from the public on 23.02.2021 at 11.00 a.m before the office of the temple. The third respondent Executive Officer of the temple thereafter passed an order dated 23.02.2021 concluding that the temple festival cannot be held on account of the prevailing law and order situation.

11. However, within three days, ie. on 26.02.2021, the fourth respondent Trustee /Takkar vide impugned order dated 26.02.2021 decided to conduct the temple festival stating that there was no discrimination between the different communities when the temple festival was conducted and persons from different community were entitled to worship in the temple and that such rights are also given to persons belonging to the Schedule Caste Adi Dravidar Community. The fourth respondent Trustee/Takkar has however stated that the request of



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the persons belonging to the Schedule Caste Adi Dravidar Community for passing the Temple Car through their streets in addition to regular path, cannot be accepted by the management of the temple at this time.

12. Thus, W.P.(MD)No.5036 of 2021 has been filed for quashing the above impugned order dated 26.02.2021 of the fourth respondent Trustee / Takkar of the temple on the ground that without disposing the petition filed by the petitioner in W.P.(MD)No.5036 of 2021 under Section 25 of the H.R. & C.E. Act, the fourth respondent had unilaterally taken a decision to conduct the temple festival contrary to the decision of Executive Officer.

W.P.(MD) No.3663 of 2022

13. In W.P.(MD) No.3663 of 2022, the petitioner has challenged the order dated 04.02.2022 of the first respondent Revenue Divisional Officer (RDO) declining the permission to conduct the Maasi Month (khrp khjk;) Car Festival in Arulmigu Achiramavalli Amman Temple, Jengamarajapuram, Lalgudi Taluk, Trichy.



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WEB COPY 14. By the impugned order dated 04.02.2022, the first respondent, namely Revenue Divisional Officer has declined permission for conduct of the temple festival on the ground that during 2021, there was a law and order situation and Section 149 of the Cr.P.C had to be clamped and that criminal cases were filed against the trouble makers who resorted to stone pelting and created the law and order situation resulting in injuries of police personnel deployed for the festival.

15. The first respondent RDO has not allowed the temple festival based on the reports of the second respondent Tahsildar, the third respondent Deputy Superintendent of Police and the Revenue Inspector. The first respondent has declined permission on the ground that the situation was not conducive for the temple festival to be held as it will result in a communal riot and loss of life and damages of property witnessed during the temple festival in 2021.

16. The petitioner in W.P.(MD) No.3663 of 2022 claims that the aforesaid temple houses is their Kula Deva (family deity) and was being worshiped by his ancestors who live in Agraharam Kalaiyamputtur,



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Palani and in Trichy and other parts of India and also outside India. It is

case of the petitioner in W.P.(MD)No.3663 of 2022 that the petitioner's family is recognized with surname Mazhavarayar of Palani and Trichy and have been worshipping in the aforesaid temple for more than ten generations and therefore the conduct of the festival cannot be restrained.

17. It is the case of the petitioner in W.P.(MD)No.3663 of 2022 that the temple festival was being conducted as per the a scheme decree dated 30.03.1917 passed in O.S.No.91 of 1915.

18. The temple festival was however suspended from 1994 and was therefore sought to be revived by the petitioner in W.P.(MD)No. 3663 of 2022 and therefore filed W.P.(MD)No.3582 of 2020 before this Court. It is submitted that the temple festival was ordered to be conducted as per order dated 26.02.2020 of this Court in the said W.P.(MD)No.3582 of 2020.

19. The petitioner, as a third party, filed W.A.(MD)No.381 of 2020 before the Division Bench of this Court against the aforesaid order dated 26.02.2020 in W.P.(MD)No.3582 of 2020. The said W.A.(MD)No.381



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of 2020 was disposed vide order dated 10.03.2020 by the Division Bench

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of this Court by permitting the petitioner in W.P.(MD)No.5036 of 2021 to file appropriate application under Section 25 of the H.R. & C.E. Act and allowing the temple festival. It is submitted that the temple festival was conducted in a peaceful manner.

20. It is submitted that the first respondent RDO has declined the permission for conduct the temple festival vide impugned order dated dated 04.02.2022 though permission was sought for only as to whether the festival can be conducted in the wake of Covid 19 Restriction.

21. In W.P.(MD) No.3663 of 2022, the petitioner has challenged the order dated 04.02.2022 of the first respondent Revenue Divisional Officer (RDO) primarily on the ground that reason in the impugned order dated 04.02.2022 that the temple festival could not be conducted during 2021 due to the Covid-19 Pandemic and on account of law and order situation, cannot be accepted.

22. It is submitted that the first respondent RDO, instead of issuing standards of operating procedure for conducting the temple festival,



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passed the impugned order in violation of the order dated 26.02.2020 of the learned Single Judge of this Court in W.P.(MD)No.3582 of 2020 and the order dated 10.03.2020 of the Division Bench of this Court in W.A. (MD)No.381 of 2020.

23. It is submitted that the fourth respondent Executive Officer of the Temple merely gave a letter to the first respondent RDO on 07.01.2022 only for making suitable arrangements for the temple car festival. Instead of granting such permission to conduct the temple festival, reports were called for from the second and third respondents, namely the Tahsildar and the Deputy Superintendent of Police.

24. It is submitted that the second respondent Tahsildar in a hurry has given a report stating that riots took place in the temple festival in 2021 and the third respondent Deputy Superintendent of Police has also given a similar report, pursuant to which, the first respondent RDO has concluded that the permission for conducting the temple festival cannot be granted.



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25. I have considered the arguments advanced by the respective petitioners /respondents and the leaned Special Government Pleader appearing for the official respondents.

26. Worshipping of a family deity is a personal affair of each family. It cannot ordinarily involve community at large. Therefore, a large scale festival by excluding a section of the society or conferring a special privileges to a section of the family from a community cannot be sanctioned for a temple which is governed by the provisions of H.R. & C.E. Act.

27. The issue to be considered in these two Writ Petitions is whether the Temple / Car Festival for the above temple can be allowed in the light of the reports of the second and third respondents in W.P.(MD) No.3663 of 2022, namely the Tahsildar and the Deputy Superintendent of Police, based on which, the impugned order dated 04.02.2022 was passed by the first respondent Revenue Divisional Officer in W.P.(MD) No.3663 of 2022 and whether the order impugned in W.P.(MD) No.5036 of 2021 passed by the fourth respondent therein can be interfered.



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28. The Temple / Car Festival which has been in hibernation since 1994 and was sought to be revived in 2020 in terms of an innocuous order dated 26.02.2020 of this Court in W.P.(MD)No.3582 of 2020. The Division Bench of this Court also declined to interfere with the aforesaid order dated 26.02.2020 of the learned Single Judge challenged in W.A.(MD) No.381 of 2020 filed by the petitioner in W.P.(MD)No.5036 of 2021, vide order dated 10.03.2020.

29. However, Division Bench of this Court wanted the Temple / Car Festival to be conducted in a peaceful manner and therefore, had not only permitted the petitioner in W.P.(MD)No.5036 of 2021 to file appropriate application before the Joint Commissioner for taking the Temple Car through any of the few streets of the petitioner in W.P. (MD)No.5036 of 2021, but had also given a liberty to the Executive Officer to take a decision as to whether the Temple Car can be taken through any one of the streets giving minimum of two hours time for the Temple Car to pass through the street on any day of the festival.

30. Reports of the second and third respondents, namely Tahsildar and Deputy Superintendent of Police indicate that the Temple Festival



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was partially boycotted and the temple festival was not peaceful during 2020. Miscreants also pelted stones during 2021 Temple Festival which resulted in injuries to the public and police personnel deployed.

31. The situation appears to have not improved since then. Dissatisfaction among the members of the different communities are being fuelled. Communal disharmony is the casualty which threatens both loss of life and property. The first respondent RDO has come to a fair conclusion based on the objective material placed before him by the second and the third respondents, namely Tahsildar and Deputy Superintendent of Police. The officials of the Government who have given their inputs to the first respondent RDO have no personal interest. No motive can be attributed against. The first respondent RDO cannot be expected to turn a blind eye to such report.

32. Considering the above, the Court also cannot turn its eyes blind to allow the Temple / Car festival in the light of the ground reality. The Car Festival certainly cannot be allowed to pass through streets as it has the propensity to stoke communal disharmony as was noticed during 2021.



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WEB COPY 33. Therefore, Temple Festival cannot be allowed and Temple Car also cannot be permitted to pass through various streets around the temple. At best, religious ceremony within the precincts of the temple can be allowed subject to the appropriate police protection if the first respondent RDO re-examines the ground reality based on the reports of the second and the third respondents, namely Tahsildar and Deputy Superintendent of Police.

34. Therefore, W.P.(MD)No.5036 of 2021 is allowed by quashing the impugned order dated 26.02.2021 of the fourth respondent Trustee /Takkar.

35. If required, the authorities under the H.R. & C.E. Act may decide to appoint a fit person to manage the affairs of the said temple as the fourth respondent in W.P.(MD) No.5036 of 2021 has allowed the situation to deteriorate in 2021 despite warning of the third respondent Executive Officer of the Temple.



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WEB COPY 36. The second respondent Joint Commissioner, H.R. & C.E. is however directed to pass a final order in the petition filed by the petitioner in W.P.(MD)No.5036 of 2021 under Section 25 of the H.R. & C.E. Act in terms of the order dated 10.03.2020 of the Division Bench of this Court in W.A.(MD) No.381 of 2020, within a period of sixty (60) days from the date of receipt of a copy of this order. Needless to state that before passing such order, all the persons who are likely to be affected by such order / decision, shall be heard.

37. W.P.(MD)No.3663 of 2022 is disposed by directing the first respondent Revenue Divisional Officer to re-examine the feasibility of conduct of the temple festival “**within precincts of the temple without taking the temple car through streets in Jengamarajapuram Village, Lalgudi Taluk, Trichy**” after getting necessary inputs from the second respondent Tahsildar and third respondent Deputy Superintendent of Police, so that, there is no disturbance in the communal harmony and compromise in the law and order. If so, the first respondent Revenue Divisional Officer shall give such permission by 07.03.2022.

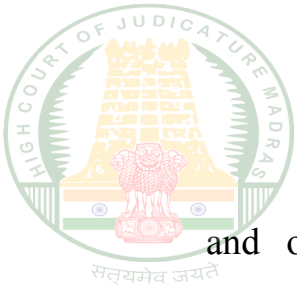


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WEB COPY 38. If such permission is granted, the temple festival shall be conducted under the strict supervision of officers of the H.R. & C.E Department and under surveillance of the third respondent Deputy Superintendent of Police, Paramasivam, Lalgudi. The third respondent Deputy Superintendent of Police, Paramasivam, Lalgudi is directed to deploy the adequate number of police personnel during the temple festival.

39. It will be the responsibility of all the official respondents to ensure that there is no undue incidents of any rioting and/or communal disharmony and it shall be ensured that there is no discrimination against any individual or any person belonging to any community.

40. In the result, (i) W.P.(MD)No.5036 of 2021 is allowed with a direction to the second respondent Joint Commissioner, H.R. & C.E. Department to dispose the petition filed by the petitioner in W.P. (MD)No.5036 of 2021 under Section 25 of the H.R. & C.E. Act within a period of sixty (60) days from the date of receipt of a copy of this order and, (ii) W.P.(MD)No.3663 of 2022 is disposed with the above directions



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and observations. No cost. Consequently, connected Miscellaneous

WEB COPY Petitions are closed.

04.03.2022

Internet : Yes/No

Index : Yes / No

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Note :-

- i. Issue order copy on 04.03.2022.**
- ii. The learned Special Government Pleader is directed to communicate a copy of this order to the first respondent Revenue Divisional Officer by the end of the day.**

To

- 1.The Revenue Divisional Officer,
Lalgudi Taluk, Poovalur Road,
Lalgudi - 621 703.
- 2.The Tahsildar, Taluk Office,
Paramasivapuram, Lalgudi – 621601.
- 3.The Deputy Superintendent of Police,
Paramasivapuram, Lalgudi – 621601.
- 4.The Commissioner,
HR & CE Department,
No.119, Uthamar Gandhi Salai,
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- 5.The Joint Commissioner,
HR & CE Department,
Srinivasa Nagar, Tiruvanaikovil,
Trichy – 5, Trichy District.



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C.SARAVANAN, J.

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Pre-Delivery Common Order
made in
W.P. (MD) Nos.5036 of 2021
& 3663 of 2022
and
W.M.P. (MD) Nos.4055 of 2021
& 3371 of 2022

04.03.2022