

THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : **22.06.2019**

CORAM:

THE HON'BLE MR.JUSTICE **N. ANAND VENKATESH**

WP.No.16949 of 2019

South Indian Artistes' Association
Rep by its General Secretary,
No.1/8, Dr.Narasiman 1st Cross Street,
Flat No.2, Ground Floor, North Boag Road,
T.Nagar, Chennai 600 017

...Petitioner

Vs.

1. The Commissioner of Police,
Chennai City.
2. Deputy Commissioner of Police,
Mylapore, Chennai.
3. Inspector of Police,
E5, Pattinambakkam Police Station,
Chennai 600 028

... Respondents

Prayer: Writ petition filed under Section 226 of Constitution of India praying for writ of Mandamus directing the respondents to provide adequate police protection for the ensuing election of the petitioner Association to be conducted on 23.06.2019 at Dr.M.G.R.Janaki Arts and Science College, R.A.Puram, Chennai - 600 028.

For Petitioners	: Mr.Krishna Ravindran
For Respondents	: Mr.A.Natarajan Public Prosecutor

ORDER

This writ petition has been filed seeking for police protection to conduct the election of the association on 23.06.2019.

2. When the matter came up for hearing on 19.06.2019, this Court was informed that the election itself has been stopped pursuant to the orders passed by the Registrar of Societies and therefore, this Court had adjourned the case for two weeks.

3. The order passed by the Registrar of Societies dated 19.06.2019 became a subject matter of challenge before this Court in WP No.17583 of 2019. This Court after hearing all parties concerned, had stayed the operation of the order and had permitted the elections to be conducted on 23.06.2019. This Court had also made it clear that the electoral process can proceed only till the stage of polling of votes and thereafter, the ballot boxes will have to be kept in safe custody. The decision regarding the counting of votes will take place only after the Court passes further orders in the writ petition. The main case has been posted for hearing on 08.07.2019.

4. In view of the above development, on an urgent mentioning made by the petitioner association, the case was permitted to be moved before this Court. The election was initially slated to be held at Dr.MGR Janaki College of Arts and Science for Women, R.A.Puram, Chennai. The respondent police had valid reasons not to grant police protection by taking into consideration the locality of the venue and the disturbance it might cause to the general public.

5. Mr.A.Natarajan, learned Public Prosecutor submitted that the election should take place in the venue which does not cause inconvenience to the general public and therefore, an alternate venue must be suggested for conducting the election and this Court also directed the petitioner to suggest an alternate venue for conducting the election.

6. Mr.Janarthanan, learned counsel for the petitioner submitted that even the previous elections had taken place at St. Ebbas Matriculation Higher Secondary School, without any problem and therefore, the present election can take place in the very same venue. It was further submitted that the Election Officer has already

inspected the venue and necessary permission has also been granted by the above said school to conduct the election.

7. Mr.A.Natarajan, learned Public Prosecutor submitted that several opposition parties have planned to conduct agitation throughout the city and therefore, police protection must be provided at all the places where the agitation takes place and at such a short notice, the respondent may not be able to provide for sufficient police force during election. The learned Public Prosecutor further submitted that the petitioner can get the election postponed to a future date, so that the police will be in a position to assess the situation and to take a decision regarding providing for police protection. The learned Public Prosecutor concluded his arguments by submitting that since the respondent is not in a position to immediately assess the situation and provide for police protection, this Court should not permit to conduct the election on 23.06.2019.

8. This Court has carefully considered the submissions made on either side and the materials placed on record.

9. This Court is presently concerned only with the limited

issue as to whether any direction can be issued to the respondent police to provide protection for the elections slated to be held on 23.06.2019.

10. This Court has already permitted the petitioner to continue with the electoral process and polling on 23.06.2019. Therefore, this Court wants to pass an order in this petition in line with the order passed in WMP No.17509 of 2019 dated 21.06.2019. The order of police protection is more consequential in nature.

11. The election is being conducted by a Retired Judge of this Court and a reading of the order referred supra makes it clear that all the arrangements have been made for conducting the election on 23.06.2019. The respondent police are also aware about the elections that is going to be conducted on 23.06.2019, since they have already been approached seeking for police protection. The only issue that is in contention is the venue of election.

12. Admittedly, the previous elections were conducted at ST.Ebbas Matriculation Higher Secondary School. The said election was also conducted by the very same retired Judge of this Court

and police protection was also granted during the said election. Due to paucity of time, it will be difficult to scout for the venue of election at the eleventh hour and it will be more appropriate to conduct the election in the same venue where the previous election had taken place.

13. This Court has taken into consideration the difficulty expressed by the respondent police and of the fact that the respondent police must allot sufficient police force, if and when any agitation takes place, as anticipated by the police. Therefore, this Court is of the considered view that it is enough if the respondent police is able to provide protection inside the campus, where the elections are going to take place on 23.06.2019.

14. The petitioner association consists of cinema and drama artists. People in this state are looking at them as idols and literally worshipping them. This Court therefore expects that the members of the association will also keep up that reputation and maintain their status as idols, rather than involving themselves in violent acts or by creating unruly scenes. If any such incidents take place, it will reflect very badly upon the association and I am sure that the

people will draw their own conclusions and change their opinions, if they find that their idols are indulging in violence. I am sure that this will be kept in mind by all the members of the association and the members of the association and the contestants shall only redress their grievances in accordance with law and shall not take law into their own hands.

15. Mr.A.Natarajan, learned Public Prosecutor submitted that the venue in which the elections are planned to take place, falls within the jurisdiction of the Deputy Commissioner of Police, Mylapore.

16. It is seen from records that it was the Election Officer who had sought for the police protection for the smooth conduct of the elections. Going by the manner in which the previous elections took place in the same venue and taking into consideration the request made by the Election Officer, this Court deems it fit to give the following directions :-

(a) The Deputy Commissioner of Police, Mylapore is directed to assess the venue of the Election namely St.Ebbas Matriculation

Higher Secondary School and decide upon the police strength to be provided inside the Election venue.

(b) It is made clear that no one shall be permitted inside the Election venue except the voters carrying the photo identity.

(c) The Deputy Commissioner of Police is directed to ensure that no vehicles are parked outside the campus and either the vehicles will have to be parked inside the venue or the vehicles will have to leave the candidate in the venue and be taken away from the venue.

(d) The Deputy Commissioner of Police, Mylapore shall ensure safety of the Election Officer and see to it that no one interferes with his functions.

(e) The polling is taking place between 7.00 am and 5.00 pm and this timing shall be strictly enforced and no one shall be permitted to enter the venue after 5.00 p.m.

(f) After the completion of the polling, since this Court has

directed that no counting will take place, the ballot boxes need to be kept in safe custody. Therefore, the Deputy Commissioner of Police shall provide sufficient protection to transport the ballot boxes to the premises belonging to the association. In the presence of the representative of the contesting parties, it shall be kept inside a room which shall be locked and sealed and the same will be under the direct supervision and control of the Election officer. No one can have access to the room, where the ballot boxes are kept in safety custody.

(g) The Election venue should be cleared by all concerned latest by 8.00 p.m on 23.06.2019.

(h) The Association shall pay all the necessary charges to the police towards the police protection extended for conducting the election.

(i) It is left open to the Deputy Commissioner of Police, Mylapore to impose reasonable conditions in order to ensure that the election process takes place in a smooth manner without giving rise to any law and order problem.

(j) It is also made clear that if any one resorts to violence or disturbs the process of election, immediate action shall be taken in accordance with law.

15. Accordingly, this Criminal Original Petition is disposed of with the above directions.

22.06.2019

Index : Yes
Internet : Yes
Speaking order or non-Speaking order
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To:

1. The Commissioner of Police,
Chennai City.
2. Deputy Commissioner of Police,
Mylapore, Chennai.
3. Inspector of Police,
E5, Pattinambakkam Police Station,
Chennai 600 028
4. The Public Prosecutor,
High Court, Madras.

N. ANAND VENKATESH, J.

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