

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.01.2020

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THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Writ Petition(MD)Nos.1848 and 1849 of 2020

Subramaniya Thevar

... Petitioner in W.P(MD)No.1848/2020

P.Krishnan

... Petitioner in W.P(MD)No.1849/2020

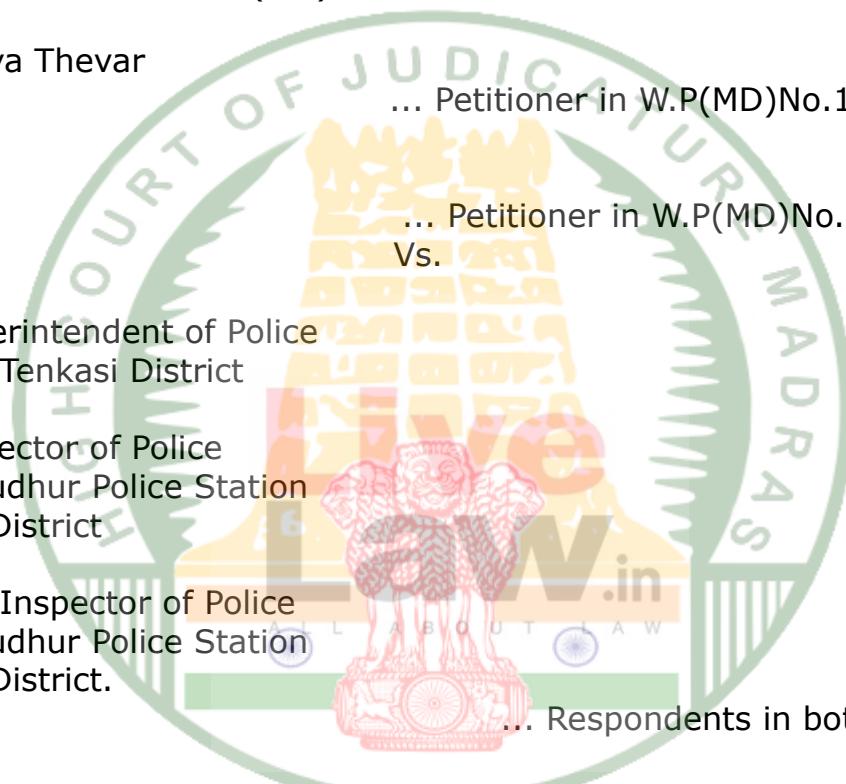
Vs.

1. The Superintendent of Police
Tenkasi, Tenkasi District

2. The Inspector of Police
Achampudhur Police Station
Tenkasi District

3. The Sub Inspector of Police
Achampudhur Police Station
Tenkasi District.

... Respondents in both petitions



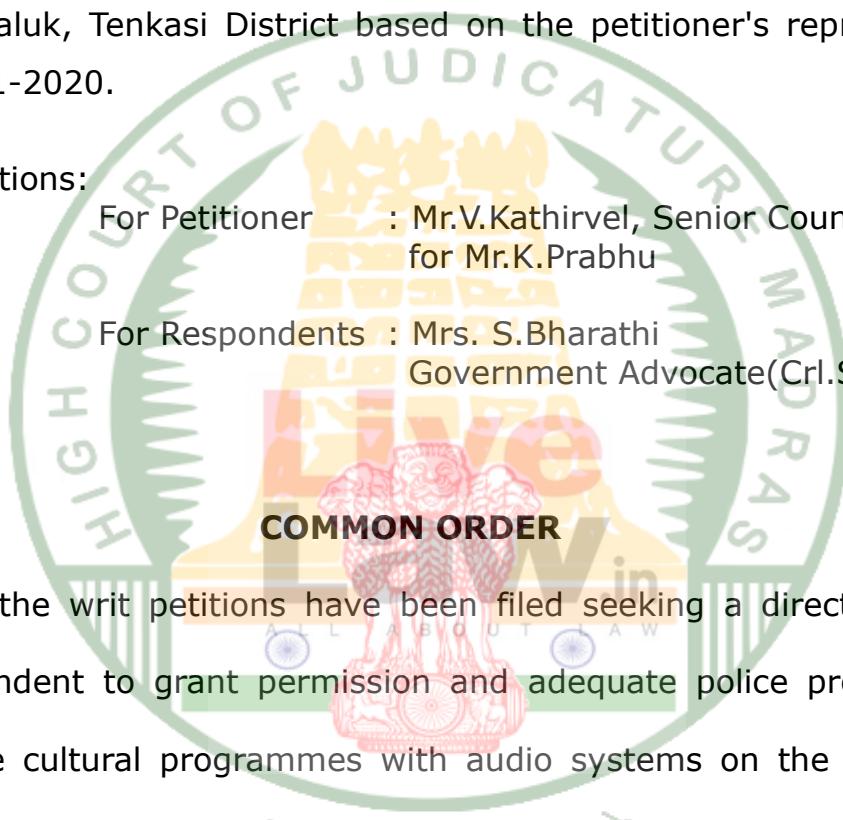
PRAYER in W.P(MD)No.1848/2020 :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the third Respondent to grant permission and adequate police protection to conduct the cultural programmes with audio systems on the 10th day of Thaipoosam festival i.e., on 08.02.2020 from 9.00 p.m. to 2.00 a.m. on the eve of Arulmigu Thirumalai Kumaraswamy Thirukoil Festival situated in Ponpozhi, Senkottai Taluk, Tenkasi District based on the petitioner's representation dated 23-01-2020.

PRAYER in W.P(MD)No.1849/2020 :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the third Respondent to grant permission and adequate police protection to conduct the cultural programmes with audio systems on the 7th day of Thaipoosam festival i.e., on 05.02.2020 from 9.00 p.m. to 2.00 a.m. on the eve of Arulmigu Thirumalai Kumaraswamy Thirukoil Festival situated in Ponpozhi, Senkottai Taluk, Tenkasi District based on the petitioner's representation dated 23-01-2020.

In both petitions:

For Petitioner : Mr.V.Kathirvel, Senior Counsel
for Mr.K.Prabhu

For Respondents : Mrs. S.Bharathi
Government Advocate(Crl.Side)



Both the writ petitions have been filed seeking a direction to the third respondent to grant permission and adequate police protection to conduct the cultural programmes with audio systems on the 7th day on 05.02.2020 and the 10th day of Thaipoosam Festival on 08.02.2020 from 9.00 p.m. to 2.00 a.m respectively on the eve of Arulmigu Thirumalai Kumaraswamy Thirukoil Festival situated at Ponpozhi, Senkottai Taluk, Tenkasi District, based on the petitioners' representation dated 23-01-2020.

2. Heard the learned Counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the respondents.

3.The learned Government Advocate (Criminal Side) appearing for the respondents would submit that the respondents have no objection in granting permission to the petitioners for conducting their customary religious rites, however, they have objection with regard to the time and usage of drums and sound system in the area. She would further submit that the Honourable Apex Court in **In Re: Noise Pollution ... Vs. Unknown** reported in **AIR 2005 SC 3136** has passed directions with regard to the usage of speakers and drums and had prescribed that the sound level should not exceed prescribed limits. She would also submit that the Director General of Police, in his proceedings in Rc.No. 007301/Genl.I(1)/2019 dated 09.04.2019 has issued circular to Commissioner of Police, Superintendent of Police and all the Station Housing Officer and directed them to follow the procedure and instruct the petitioner seeking permission to conduct cultural programs to comply with the conditions and permission may be granted subject to the petitioner agreeing to comply with the said conditions by filing necessary undertaking before the respondent police.

4.The learned senior counsel for the petitioners would submit that

the petitioners are prepared to give necessary undertakings to the respondent police and that they undertake that they will restrict themselves to noise level prescribed as per the direction of the Honourable Apex Court and that they will not use loudspeakers beyond the prescribed time and prescribed sound limits.

5. In view of the above, the respondents police are directed to grant permission for conducting the Cultural Programmes with audio systems to the 7th day and the 10th day of Thaipoosam festival i.e., on 05-02-2020 and 08.02.2020 from 9.00 p.m. to 2.00 a.m respectively on the eve of Arulmigu Thirumalai Kumaraswamy Thirukoil Festival situated in Ponpozhi, Senkottai Taluk, Tenkasi District, by enclosing the following conditions:

(a) The Cultural Programmes with audio systems on the 7th day and 10th day of Thaipoosam festival should be completed within the specified time

(b) where loudspeakers or public address or any other noise source is being used, the noise level shall not exceed 10dB(A) above the ambient noise standards for the area or 75 dB(A) whichever is lower. No one shall beat drum or tom-tom or blow a trumpet or beat or sound any instrument and use any sound amplifier at night between 10.00 p.m to 6.00 p.m.

(c) double meaning songs should not be played so as to spoil the minds of students and the youth;

(d) no songs, touching upon any political party or religion, community or caste be played;

(e) Organizers shall not erect any digital banners/cards on either side of the arterial roads, platforms, walkways/major roads and any other roads

(f) the function should not affect caste, religious or communal harmony and shall be conducted without any discrimination

(g) if there is any violation of any one of the conditions imposed, the concerned Police Officer is at liberty to take necessary action, as per law and stop such performance;

(h) similarly, the Police is empowered to stop the programme, if it exceeds beyond the permitted time;

(i) the participants of the programme shall not intake any kind of in-toxic substance or liquor during the programme;

(j) if any untoward incident takes place, the organizers of the programme be made responsible for the same

(k) the authority concerned shall videograph the entire programme at the cost of the applicant and submit the CD to the S.P concerned.

(l) Organizers shall have to obtain all other required permission from the authorities concerned

(m) Any other conditions as the authority concerned consider to impose according to the ground reality".

6. The petitioner is also directed to ensure that the conditions are strictly complied with and also to ensure that no law and order problem is created in the course of conducting the programme.

7. These writ petitions stand disposed of with the above directions.

However, there shall be no order as to costs.

Index :Yes/No

30.01.2020

Internet :Yes/No

Ls/skn

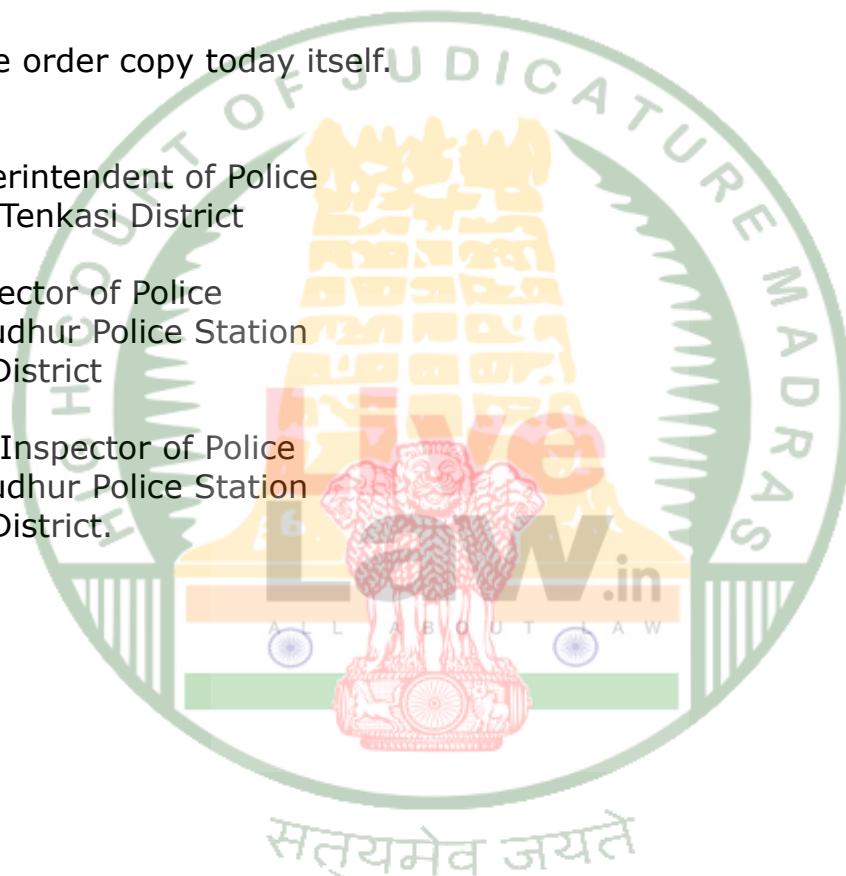
Note : Issue order copy today itself.

To

1. The Superintendent of Police
Tenkasi, Tenkasi District

2. The Inspector of Police
Achampudhur Police Station
Tenkasi District

3. The Sub Inspector of Police
Achampudhur Police Station
Tenkasi District.



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A.D.JAGADISH CHANDIRA,J.

Ls/skn



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