

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2024

WEB COPY

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

W.P(MD)No.24623 of 2024

Kammavar Samuga Nala Sangam,
Represented by Mahalakshmi, Secretary,
W/o. Narayanasamy,
Panayadipatti Panchayat,
Vembakottai Taluk,
Virudhunagar District.

... Petitioner

vs.

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Thasildar,
Vembakottai Taluk,
Virudhunagar District.
3. The President,
Panayadipatti Village Panchayat,
Vembakottai Taluk,
Virudhunagar District.
4. Superintendent of Police,
Virudhunagar District,
Virudhunagar.
5. The Inspector of Police,
Vembakottai Police Station,



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Vembakottai Taluk,
Virudhunagar District.

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6. Balamurugan
7. Manikandan
8. Muniyasamy
9. Rajkumar

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent 1 to 5 to consider the petitioner's representation dated 27.07.2024 and 30.08.2024 to forbear the respondents 6 to 9 not to conduct any funeral procession march in future through their residential streets, other than using a main road or usual route to reach the burial ground and not to create any public nuisance in the Panayadipatti Village, Sattur Taluk, Virudhunagar District, and consequently take action against respondents 6 to 9 within a time frame stipulated by this Honourable Court.

For Petitioner : Mr.I.Velpradeep
For R1 & R2 : Mr.P.Thilakkumar, Government Pleader
For R4 & R5 : Mr.P.Kottai Chamy
Government Advocate (Crl.Side)

ORDER

(Order of the Court was made by **M.S.RAMESH, J.**)

The petitioner herein is an Association of the members of one particular community in the State of Tamil Nadu. In this writ petition, they



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seek for a direction to the respondents 1 to 5 to forbear the private respondents

herein, from creating public nuisance by conducting funeral procession march through the residential streets of the village, in which, their members are residing, but to use the main road or usual route to reach the burial ground.

2. In the affidavit filed in support of the present writ petition, the Association has not averred on any legal right which they possess to prevent the villagers from conducting the funeral procession on public streets. Counsel for the petitioner was also not in a position to demonstrate as to the right vested on the Association to prevent such funeral procession on public streets. We hasten to add that there can never be any such right of such nature and that the public streets and roads vested with the concerned Panchayat is open for free and open enjoyment by every villager or other sections of the general public, irrespective of caste, creed and community. The very prayer and the averments in the affidavit filed in support of the writ petition, amounts to discrimination in terms of Article 15 of the Constitution of India and thus, the prayer sought for in the present writ petition is unconstitutional and illegal.

3. We fail to understand as to how the conduct of funeral procession can be claimed as a public nuisance by the petitioner's Association. The



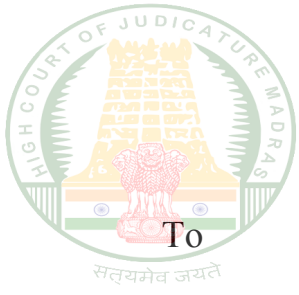
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petitioner's Association is a responsible body, which should only address the welfare measures of its members and should not degrade itself, by attempting to create an unrest among the villagers, by filing of such irresponsible writ petitions. We have expressed our dissatisfaction in view of the inhumane approach of the Association in this writ petition, which if entertained, could possibly result in disharmony and chaos among the villagers. In the light of such consideration, we deem it appropriate to impose exemplary costs against the petitioner's Association.

4. In the absence of any legal ground to seek for the prayer sought for, the Writ Petition stands dismissed with costs of Rs.25,000/- [Rupees Twenty Five Thousand only], which shall be paid by the petitioner to the Legal Services Committee attached to the Madurai Bench of Madras High Court, within a period of fifteen days from the date of receipt of a copy of this order.

Index : Yes / No
Neutral Citation : Yes / No
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(M.S.R, J.) (A.D.M.C, J.)
06.11.2024



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To

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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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ORDER MADE IN
W.P(MD)No.24623 of 2024
DATED : 06.11.2024