

W.P.(MD)No.5344 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.5344 of 2020

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... Petitioner

Vs

1.The Superintendent of Police,  
Office of Superintendent of Police,  
Trichy District.

2.The Inspector of Police,  
Enamkulathur Police Station,  
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2<sup>nd</sup> respondent by its letter dated 04.03.2020 as illegal and quash the same and consequently direct the respondents to grant permission to conduct public meeting on 20.03.2020, time 05.00 pm to 10.00 pm at Kadaiveethi, Enamkulathur, Trichy District regarding CAA, NRC and NPR based on the petitioner's representation dated 04.03.2020.

For Petitioner : Mr.D.S.Haroon Rasheed

For Respondents : Mrs.M.Ananthadevi  
Govt. Advocate (Crl. Side)

**ORDER**

The petitioner is the president of the administrative committee of Sunnathaval Jamath Jumma Periya Pallivasal, Enamkulathur. He submitted a petition dated 04.03.2020 addressed to the Superintendent of Police, Trichy (Rural) seeking permission to hold a public meeting on 20.03.2020 at Kadaiveethi, Enamkulathur, Trichy District to protest against the recent amendments made to the citizenship law. The petitioner's request was rejected by the Sub Inspector of Police, Enamkulathur Police Station vide order dated 04.03.2020. The same is challenged in this writ petition.

2. Heard the learned counsel on either side. With their consent, the writ petition is taken up for final disposal at the stage of admission itself.

3.The reasons for rejecting the petitioner's request as set out in the impugned order are two fold:

(a) it would cause inconvenience to general public and affect traffic.

(b). law and order problems may arise.

4.The learned counsel appearing for the petitioner points out that whether it be Section 30 of the Police Act, 1861 or Section 41 of the Chennai City Police Act, 1988, the Sub Inspector of Police has not been clothed with the power to deny permission to hold a public meeting. Thus, on the face of it, the impugned order appears to be lacking in jurisdiction.

5.Since I notice that the officials invariably deny permission for holding meetings protesting governmental laws and policies, I deem it is my duty to draw their attention to the Justice P.D.Desi Memorial Lecture delivered by Hon'ble Mr.Justice DY.Chandrachud recently. The Hon'ble Judge remarked as follows:-

*“A state committed to the rule of law ensures that the state apparatus is not employed to curb legitimate and peaceful protest but to create spaces conducive for deliberation. Within the bounds of law, liberal democracies ensure that their citizens enjoy the right to express their views in every conceivable manner, including the right to protest and express dissent against prevailing laws. The blanket labelling of such dissent as ‘anti-national’ or ‘anti-democratic’ strikes at the heart of our commitment to the protection of constitutional values and the promotion of a deliberative democracy.”*

*“An essential aspect of any successful democracy is its commitment to the protection of deliberative dialogue. Citizens manifest their equality not only by refraining from interference with the freedom of expression of others; they also do so by sustaining conditions conducive for free communication.”*

*“Democracy then is judged not just by the institutions that formally exist but by the extent to which different voices from diverse sections of the people can actually be heard, respected and accounted for. The great threat to pluralism is the suppression of difference and the silencing of popular and unpopular*

*voices offering alternate or opposing views. Suppression of intellect is the suppression of the conscience of the nation.”*

*“...Protecting dissent is but a reminder that while democratically elected governments offer us a legitimate tool for development and social coordination, they can never claim a monopoly over the values and identities that define our plural society.”*

*“The attack on dissent strikes at the heart of a dialogue-based democratic society and hence, a state is required to ensure that it deploys its machinery to protect the freedom of speech and expression within the bounds of law, and dismantle any attempt to instil fear or curb free speech,” he opined.”*

*“Inherent in the liberal promise of the Constitution is a commitment to a plurality of opinion. A legitimate government committed to deliberate dialogue does not seek to restrict political contestation but welcomes it.....taking democracy seriously requires us to respond respectfully to the intelligence of others and to participate vigorously, but as an equal in determining how we should live together.”*

The sentiments of Hon'ble Mr.Justice DY.Chandrachud were echoed in another lecture delivered by Hon'ble Mr.Justice Deepak Gupta.

6. There is a reason for my resorting to such copious quoting. It is not as if the officials alone discourage and put down dissent. Recently in the 43<sup>rd</sup> book fair organized by The Book Sellers' and Publishers' Association of South India (BAPASI) a publisher was evicted from his rental stall. The eviction notice read that the action was on account of the allottee selling a book against the government. (The Hindu dated 13.01.2020).

7. I can understand prohibition of sales of banned and pirated books and CDs. But to say that books that are critical of the government cannot be sold or displayed in a book fair is absurd. BAPASI is not before me and I do not know if really there is such an allotment condition. I have no doubt whatsoever in my mind that even if such a condition has been incorporated in the allotment order, the same is unconstitutional.

8.The right to hold public meeting is traceable to Article 19(1)(a) and 19(1)(b) of Constitution of India. These provisions guarantee to all citizens the right to freedom of speech and expression and to assemble peaceably and without arms. The Constitution Bench of the Hon'ble Supreme Court in the decision reported in *(1973) 1 SCC 277 (Himat Lal K.Shah V. Commissioner of Police)* held that the right to hold public meetings flows from Article 19(1)(b) and that the state cannot impose unreasonable restrictions. It was also observed that public streets are the natural places for expression of opinions and dissemination of ideas. It forms parts of the tradition of our national life. Of course this right cannot be claimed in its absolute sense. The authority will always have the power to regulate.

9.When it comes to upholding fundamental rights, it is the duty of the local administration to stand in aid of the same. If any law and order problem arises, the same must be dealt with appropriately. The police should not choose the easy option of stifling the fundamental rights.

10.The petitioner's counsel on instructions submitted that the organizers will abide by the regulations that may be imposed by the authorities as regards the number of participants, timings etc. He also undertakes that the decibel levels of the amplifier will not exceed the permissible limits. The meeting will commence at 06.00 p.m. and conclude at 10.00 p.m. The speakers will not make hate speeches or incite violence. Nothing prejudicial to national integrity and sovereignty of India will be done.

11.During the last two weeks, a number of writ petitions seeking permission to hold such protest meetings were filed and allowed. Before their number could assume pandemic proportions, coronavirus had stepped in to arrest the trend and secure reprieve for the government. In fact while dictating the order in the open Court, I had set aside the impugned order and allowed the writ petition as prayed for. By the time, the order copy came for correction and signature, the Government had introduced certain prohibitory measures. Processions, public meetings,



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camps, conferences, seminars and cultural and sports events have been banned till 31.03.2020.

12. Therefore, even while setting aside the impugned order, I am not in a position to direct the first respondent to permit holding of the petition mentioned event on 20.03.2020. The jurisdictional Deputy Superintendent of Police, will issue proceedings permitting holding of the event at the petition mentioned site immediately after the ban issued by the Government in the wake of novel coronavirus pandemic is lifted.

13. The writ petition is allowed on these terms. No costs.

**13.03.2020**

Index : Yes/No  
Internet : Yes/No  
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**Issue order copy on 18.03.2020**

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**G.R.SWAMINATHAN, J.**

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To:

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Trichy District.
- 2.The Inspector of Police,  
Enamkulathur Police Station,  
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