

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

RESERVED ON : 26.04.2021

PRONOUNCED ON : 29.04.2021

CORAM

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**W.P(MD)No.5226 of 2016**

**and**

**W.M.P.(MD).Nos.4683 of 2016 and 6124 of 2021**

T.Wilson .. Petitioner

Vs.

1.The District Collector,  
Kanyakumari District.

2.The Revenue Divisional Officer,  
kanyakumari District.

3.The Tahsildar,  
Kalkulam Taluk,  
Kanyakumari District. .. Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, forbearing the respondents from interfering

with the petitioner's right to practice his religion by conducting prayer meetings at his residence at Door No.5/104, Andoor, Aruvikarai Village, Vendalicode Post, Kalkulam Taluk, Kanyakumari District.

For Petitioner : Mr.J.Maria Roseline

For Respondents : Mr.Sricharan Rangarajan  
Additional Advocate General  
assisted by Mr.K.P.Narayanakumar  
Special Government Pleader

### **ORDER**

The issue involved in the present Writ Petition pertains to the right claimed by the writ petitioner to conduct prayer meetings in the subject premises, which is asserted by the petitioner to be a right which is inherent to Christianity and consequently a right guaranteed under the Constitution for practicing his religion.

2. The case of the petitioner is that he and his family members are devout and pious Christians, who fervently practice their religious faith as per the scriptures. It is further stated by the petitioner that conducting prayer meetings in the premises belonging to the petitioner in communion with other fellowmen is

an integral part of Christianity.

3. The grievance of the petitioner is that persons with communal feelings have given a false complaint against the petitioner to prevent the petitioner from conducting the prayer meetings. According to the petitioner, the respondents are acting upon those frivolous complaints and interfering with the petitioner's right to practice his religion. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Ms.J.Maria Roseline, learned counsel appearing for the petitioner and Mr.Sricharan Rangarajan, learned Additional Advocate General assisted by Mr.K.P.Narayanakumar, learned Special Government Pleader appearing for the respondents.

5. The nature of the dispute that is involved in the present case and the clarification sought for by this Court from the first respondent is clearly captured in the order passed by this Court on 24.2.2021, and for proper understanding, the order is extracted hereunder:

*“The case of the petitioner is that he, along with his family members is residing at Door.No.5/104, Andoor,*

*Aruvikarai Village, Vendalicode Post, Kalkulam Taluk. The petitioner and his family members are devout and pious Christians, who have been practising their religious faith as per their religious scriptures with commitment and adherence. As a part of their religious activity, the petitioner and his family members used to conduct prayers at their house every Sunday and on certain other important occasions. The petitioner in communion with his fellowmen in his house has been conducting prayer meetings among themselves, without causing any disturbance or nuisance to the neighbours.*

*2. According to the petitioner, his activities have been extremely peaceful and there has been no disturbance at all to any of the persons in the neighbourhood. The prayer meetings would always take place within the petitioner's closed premises of his house and the prayer and the related activities have been integral to the Christian activities, in terms of its doctrines and practises.*

*3.The grievance of the petitioner in this case is that lately, vested interests have started giving false complaint against the activities of the petitioner with a view to hinder the legitimate religious activities, which activities are well within the Constitutional scheme and recognized as a part of the fundamental rights as enshrined in the Constitution. Some of the fringe elements*

*have been inimical to the religious activities of the petitioner and his fellowmen, have maliciously started making false allegations against the activities and as a consequence, the petitioner has been facing interference from the respondents against the activities, which have all along been confined within the petitioner's residence. According to the petitioner, he has been facing constant threat from the respondent officials that not to carry on his activities, off late. In the said circumstances, the petitioner is before this Court seeking a direction to restrain the respondents from interfering with the religious activities of the petitioner, as right to worship any faith is a fundamental right of the citizens of this country.*

*4.Notice was ordered in the writ petition and on behalf of the 3<sup>rd</sup> respondent, a counter affidavit has been filed.*

*5.In the counter affidavit, it is stated that the house, in which, the petitioner has been conducting the prayers, belongs to his brother and it was occupied originally for a residential purpose, but over a period of time, it was converted into the place of public worship, which requires prior permission from the authorities concerned. According to the counter affidavit, the activities of the petitioner were causing law and order problem in the neighbourhood and also disturbing the public peace at*

*large. In that regard, a peace committee meeting was also held, but the petitioner was unwilling to extend his cooperation for any amicable solution.*

*6.Mr.Sricharan Rangarajan, learned Additional Advocate General assisted by Mr.M.Jeyakumar, learned Additional Government Pleader appearing for the respondents, in fact, would elaborately submit that under the guise of conducting family prayers, the petitioner has, in fact, converted his residential house into the place of public worship, which requires proper permission from the authorities concerned under the relevant Act. Admittedly, prior permission has not been obtained for conducting prayers and there are well laid down statutory guidelines for grant of permission for any religious activities with a view to protect the public peace and order.*

*7.At this, the learned counsel appearing for the petitioner would submit that for conducting prayers within the confines of the residential home, no permission is required at all and nowhere, such permission is contemplated for the kind of activities carried on by the petitioner and his family members.”*

6. Pursuant to the above orders, the first respondent conducted an enquiry, affording opportunity to the petitioner to put forth his case, and filed a report

before this Court. The relevant portions in the report filed by the first respondent and the directions issued by this Court to the petitioner is captured in the order passed by this Court on 17.04.2021. For proper appreciation, the order is extracted hereunder:

*“Pursuant to the orders passed by this Court on 24.02.2016, the first respondent has filed a report before this Court. The relevant portions in the report are extracted hereunder:-*

*“9. I respectfully submit that as per the Hon’ble High Court direction, the petitioner and neighbours were personally enquired on 10.03.2016 at 4.30 p.m. When the petitioner was enquired, he said that he had sought permission from District Administration for constructing Church for public religious worship. But permission was not given due to objections from the neighbours. He further stated that the land and building at Door No.5/104 of Ayacode Village belongs to his younger brother and the “Word of Ministries” is registered as a Trust in the above door number, wherein, public congregation happens and without permission the place is being used for public worship for more than five years.*

*10. I respectfully submit that the objectors Mr.Pradeep Kumar and Mr.Ramachandran, who are neighbours to the said building have stated that the*

*prayer house is started as a Pentecostal Worship Place for a few days in a weeks and went on all days later with Mike, Speaker and Prayers were held regularly from 9 A.M. to 12 P.M. and sometimes in the night also, which creates lot of disturbance to neighbours and students. Most of the attenders are came in cars and vans from elsewhere and not from Ayacode Village.*

*11. I respectfully submit that on the basis of assessment of the personal hearing and material evidences, it is clearly revealed that the activities carried on by the petitioner and his followmen could be construed as Public worship which requires necessary permission from District Collector as per Rule 4 (3) of the Tamil Nadu Panchayats Building Rules, 1997. Further, it is submitted that the said place is under Non Planning Area, wherein, for any construction necessary permission shall be obtained from the Director under Section 47 (47) (2) of the Tamil Nadu Town and Country Planning Act, 1971. The report of Superintendent of Police was not yet received.”*

*2. This Court pointed out to the learned counsel appearing for the petitioner that the petitioner is not conducting a Meeting inside the House and what is being conducted is under the Banner of “House of Ministries”, which is a registered Trust for the last*



*seven years. This Court made it clear that if the Meeting is going to be held at that scale, obviously, it has to be seen only as a place of public worship and necessary permission must be sought for from the District Collector under the relevant Rules.*

*3. The learned counsel appearing for the petitioner submitted that she will take instructions from the petitioner and will also file an affidavit before this Court as to the manner in which the prayer meeting is proposed to be held in future.*

*4. This Court will pass final orders in this Writ Petition based on the affidavit to be filed by the petitioner.*

*5. The Registry is directed to post this case under the caption “For Orders” on 26.04.2016”.*

7. The petitioner, pursuant to the above directions, has filed an affidavit before this Court and the relevant portions are extracted hereunder:

*“2.It is respectfully submitted that when the writ petition came up for hearing before this Court on 17.4.2021, it was represented on behalf of the respondents that the Writ Petitioner is conducting prayer meetings under the “WORD OF GOD MINISTRIES TRUST”. It is submitted that when the petitioner’s counsel asserted that prayer meetings conducted by the petitioner are only private in nature and not public worship, this Court was pleased to direct the petitioner to file an affidavit that prayer meeting will not be conducted under ‘Word of God*

*Ministries Trust'. Accordingly, the present affidavit is filed.*

*3.The petitioner hereby affirms that prayer meetings conducted by him with his fellow believers/Christians are only private in nature and that no prayer meetings will be conducted by the petitioner under the banner 'Word of God Ministries Trust'/ The petitioner further submits tht until his brother T.David obtains permission from the 1<sup>st</sup> respondent/District Collector to use the Ground Floor of the residential building as prayer hall, no public worship under 'Word of God Ministries Trustwill be conducted."*

8. The learned counsel for the petitioner, in order to impress upon this Court, the importance of group prayer, brought to the notice of this Court certain Verses from the Bible. Upon going through these verses, it is seen that praying to God as a group is encouraged in Christianity, and it forms part of the integral practice of the Christian religion.

9. The learned counsel for the petitioner also brought to the notice of this Court the following judgments:

(a) ***Bijoe Emmanuel and others vs. State of Kerala and others***, reported in ***AIR 1987 SC 748***;

(b) ***The Commissioner of Police vs. Acharya Jagadishwarananda***

*Avadhuta and another*, reported in *2004 (12) SCC 770*;

(c) *Sadhu C Selvaraj vs. The Collector of Kanyakumari*, reported in *CDJ 2007 MHC 5279*; and

(d) *Paul Thankom vs. The State of Tamil Nadu represented by the Secretary to Government, Home Department and others.* (W.P.(MD).No. 10782/2006 dated 14.8.2002).

10. On going through the materials that were placed before this Court, this Court finds the petitioner, in the guise of conducting prayer meetings, is actually having a full-fledged prayer hall intended for religious purposes where huge congregations take place. The photographs that have been filed as an additional typed set of papers, and which were produced by the petitioner before the District Collector, at the time of the enquiry, substantiate the fact that the premises is actually used as a place of public worship without obtaining the necessary permission under the relevant rules. The fulcrum of any religious faith is “the truth”, and no religion tolerates any act which takes a person away from the truth. In the present case, the petitioner who claims himself to be a devout Christian has travelled far away from the truth. The petitioner is to portray as if the premises is being used only for group prayers while the same is being used

for huge public gatherings for public worship. It is very clear from the materials placed before this Court.

11. It has been brought to the notice of this Court that the procedures and permissions to be complied with and sought, respectively, in order to construct a building intended for public worship or religious purposes as prescribed under Rule 4(3) of The Tamil Nadu Panchayats Building Rules, 1997 and requirements under Rule 47-A for the development of land in an area other than a planning area as contemplated under The Tamil Nadu Town and Country Planning Act, 1971 have not been complied with by the petitioner.

12. In *Commissioner of Police and Ors. v. Acharya Jagadishwarananda Avadhuta and Ors.*, reported in *2004 (12) SCC 770*, the Hon'ble Supreme Court while deciding what would constitute an essential and integral practice in a religion held as extracted hereunder:

*“86. The expression “religion” has not been defined in the Constitution and it is incapable of specific and precise definition. Article 25 of the Constitution guarantees to every person, freedom of conscience and right freely to profess, practise and propagate religion. No doubt, this*

*right is subject to public order related to health and morality and other provisions relating to fundamental right. Religion includes worship, faith and extends to even rituals. Belief in religion is belief in practising a particular faith, to preach and to profess it. Mode of worship is an integral part of religion. Forms and observances of religion may extend to matters of food and dress. An act done in furtherance of religion is protected. A person believing in a particular religion has to express his belief in such acts which he thinks proper and to propagate his religion. It is settled law that protection under Articles 25 and 26 of the Constitution extends guarantee for rituals and observances, ceremonies and modes of worship which form part and parcel of religion. Practice becomes part of religion only if such practice is found to be an essential and integral part. It is only those practices which are integral part of religion that are protected. What would constitute an essential part of religion or religious practice is to be determined with reference to the doctrine of a particular religion which includes practices which are regarded by the community as part and parcel of that religion. Test has to be applied by courts whether a particular religious practice is regarded by the community practising that particular practice as an integral part of the religion or not. It is also necessary to decide whether the particular practice is*

*religious in character or not and whether the same can be regarded as an integral or essential part of religion, which has to be decided based on evidence.*

*87. It is not uncommon to find that those (sic) delve deep into scriptures to ascertain the character and status of a particular practice. It has been authoritatively laid down that cow sacrifice is not an obligatory overt-act for a Muslim to exhibit his religious belief. No fundamental right can be claimed to insist on slaughter of a healthy cow on Bakr Id day. Performance of “sharadha” and offering of “pinda” to ancestors are held to be an integral part of Hindu religion and religious practice. Carrying “trishul” or “trident” and “skull” by a few in a procession to be taken out by a particular community following a particular religion is by itself an integral part of religion. When persons following a particular religion carry trishul, conch or skull in a procession, they merely practise that which is part of their religion which they want to propagate by carrying symbols of their religion such as trishul, conch, etc. If the conscience of a particular community has treated a particular practice as an integral or essential part of religion, the same is protected by Articles 25 and 26 of the Constitution.”*

13. It is undeniable from a bare reading of the Bible that congregational prayer is an essential and integral practice in Christianity. The New Testament speaks volumes about how the early church engaged in congregational prayer and why it did so. However, the very same Bible while laying down, what reads like a procedure for prayer in Matthew 6:5 and 6:6 which are the fifth and sixth verses of the sixth chapter of the Gospel of Matthew and part of the Sermon on the Mount, says:

*Mat 6:5 “And when you pray, you must not be like the hypocrites.*

*For they love to stand and pray in the synagogues and at the street corners, that they may be seen by others. Truly, I say to you, they have received their reward.”*

*Mat 6:6 “But when you pray, go into your room and shut the door and pray to your Father who is in secret. And your Father who sees in secret will reward you.”*

14. It can be evidently understood that the Bible does not profess a prayer to be done or conducted in a manner that would warrant gathering of people and usage of amplifiers of any sort in the process, the latter owing to the period during which the text was written. It is therefore, clear from the very text that any

sort of prayer contemplated by the religion is directed only towards the father, and it is a very personal and profound connect between the father and the one who is praying. Infact, prayer, across religions and beliefs is considered to be a profound and private bond between the person praying and the divine. It can certainly not be thrown out on stage for public display, and one done that way cannot be construed as prayer in its purest forms.

15. Furthermore, in *Church of God (Full Gospel) in India, v. K.K.R. Majestic Colony Welfare Association and Ors.* reported in (2000) 7 SCC 282, the Hon'ble Supreme Court while deciding a case of noise pollution caused due to such prayer meetings, made observations with regard to the interplay of right to practice religion and its threshold, and the same is extracted hereunder:

*“13. In the present case, the contention with regard to the rights under Article 25 or Article 26 of the Constitution which are subject to “public order, morality and health” are not required to be dealt with in detail mainly because as stated earlier **no religion prescribes or preaches that prayers are required to be performed through voice amplifiers or by beating of drums. In any case, if there is such practice, it should not adversely affect the rights of others including that of being not disturbed in their activities.** We would only refer to some observations made*



*by the Constitution Bench of this Court qua rights under Articles 25 and 26 of the Constitution in Acharya Maharajshri Narendra Prasadji Anandprasadji Maharaj v. State of Gujarat [(1975) 1 SCC 11] . After considering the various contentions, the Court observed that: (SCC p. 20, para 30)*

*“No rights in an organized society can be absolute. Enjoyment of one's rights must be consistent with the enjoyment of rights also by others. Where in a free play of social forces it is not possible to bring about a voluntary harmony, the State has to step in to set right the imbalance between competing interests....”*

*The Court also observed that: (SCC p. 20, para 31)*

*“A particular fundamental right cannot exist in isolation in a watertight compartment. **One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the State in the light of the Directive Principles in the interests of social welfare as a whole.**”*

*14. Further, it is to be stated that because of urbanization or industrialisation the noise pollution may in some area of a city/town might be exceeding permissible limits prescribed under the Rules, but that would not be a ground for permitting others to increase the same by*

*beating of drums or by use of voice amplifiers, loudspeakers or by such other musical instruments and, therefore, rules prescribing reasonable restrictions including the Rules for the use of loudspeakers and voice amplifiers framed under the Madras Town Nuisances Act, 1889 and also the Noise Pollution (Regulation and Control) Rules, 2000 are required to be enforced. We would mention that even though the Rules are unambiguous, there is lack of awareness among the citizens as well as the implementation authorities about the Rules or its duty to implement the same. Noise-polluting activities are rampant and yet for one reason or the other, the aforesaid Rules or the Rules framed under the various State Police Acts are not enforced. Hence, the High Court has rightly directed implementation of the same.”*

16. A careful reading of all the judgements cited by the learned counsel for the petitioner as well as the judgements referred *supra* make it very clear that even a religious right cannot be claimed to be absolute. The moment the exercise of such a right affects the rights of others, it must be subjected to reasonable restriction. The rights enjoyed by the citizens, including the fundamental rights, must co-exist in harmony. In the present case, the right of worship that is claimed

by the petitioner directly impacts the rights of his neighbours, as explained in the report of the District Collector. Once the prayer meeting assumes such larger proportions resulting in public worship, attended by huge crowds, the very nature of the building changes, and it has to be construed as a prayer hall entertaining public worship. Consequently, the same would require obtaining necessary permission under the relevant rules.

17. In the judgements relied upon by the learned counsel for the petitioner, there seems to have been objections even to conduct prayer meetings, and this Court held that such prayer meetings are an integral part of Christianity and it does not require any permission from any authority, and the same cannot be objected by anyone. Therefore, those judgements will not have any application to the facts of the present case, except for the limited purpose of establishing the integral nature of group prayers in the religion.

18. The fact that the petitioner has now come up with an undertaking affidavit to the effect that the building will not be used as a prayer hall for public worship only shows that it was put to such use in the past. Even though the petitioner has come up with a statement that the building will only be used for

conducting prayer meetings, going by the past conduct of the petitioner, this Court is not in a position to repose any faith in him. Therefore, the petitioner has to necessarily conduct such prayer meetings in future only after obtaining necessary permission/approval under the relevant rules from the appropriate authority.

19. In view of the above discussion, this Writ Petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

**29.04.2021**

Internet: Yes/No  
Index : Yes/No  
P JL

**Note :** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Collector,  
Kanyakumari District.

2.The Revenue Divisional Officer,  
kanyakumari District.

3.The Tahsildar,  
Kalkulam Taluk,  
Kanyakumari District.

*W.P(MD)No.5226 of 2016*  
*T.Wilson v. The District Collector*

**N.ANAND VENKATESH, J.**

PJL

**ORDER MADE IN**  
**W.P(MD)No.5226 of 2016**

**29.04.2021**