

**R.Sivakumar Vs. State**

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**SooperKanoon Citation :** [sooperkanoon.com/1167183](http://sooperkanoon.com/1167183)

**Court :** Chennai

**Decided On :** May-17-2013

**Judge :** M.Venugopal

**Appellant :** R.Sivakumar

**Respondent :** State

**Judgement :**

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED: 17.05.2013  
CORAM THE HONOURABLE MR.JUSTICE M.VENUGOPAL Writ Petition  
No.13866 of 2013 and MP.No.1 of 2013 R.Sivakumar .Petitioner Vs The State rep.

by The Inspector of Police, Namakkal Town Police Station, Namakkal.Respondent  
Prayer:-Writ Petition filed under Article 226 of the Constitution of India praying for  
the issuance of a Writ of Mandamus, to direct the respondent to grant permission  
to hold the public meeting between 09.05.2013 to 20.05.2013 pursuant to the  
petitioner representation dated 02.05.2013 sequel to express the ideas and  
principles of the petitioner mother god by name Madhurai Veeran or any other  
date which may be fixed by this Hon'ble Court.

For Petitioner : Mr.Gowardhan for Mr.R.Thirumoorthy.

For Respondent : Mr.R.Rajeswaran, Spl.

Govt.

Pleader.

## ORDER

The petitioner has filed the present writ petition praying for issuance of an order being passed by this Court in directing the respondent to grant permission to hold public meeting between 09.05.2013 and 20.05.2013 pursuant to his representation, dated 02.05.2013 sequel to express the ideas and principles of the Petitioner's Mother God by name Madhurai Veeran or any other date, which may be fixed by this Court.

2. According to the Learned Counsel for the Petitioner, the Petitioner is the District President of Adhi Thamizhar Peravai belonging to Namakkal District.

The said Organisation is functioning for the past several years to eradicate the communalism and bring social harmony to the society.

Further, the Petitioner's Organisation is fighting for poor people, particularly struggling for getting rights of the Arunthathiyar people.

The Petitioner's Organisation had planned to hold conference in regard to Madhurai Veeran Varalaru Arasiyal Ezhuchi Manadu for the reason that he is the person, who had fought and devoted his life to our Nation and the soil.

3. The Learned Counsel for the Petitioner contends that the Petitioner's Organisation, on 04.04.2003, through its Organising Secretary, has given a representation to the Respondent/Police and requested them to grant permission to hold the said Conference on 28.04.2013 at about 6.00 p.m. in front of Municipality Mandapam, which is situated in Thuraiyur Road at Namakkal.

However, the same has not been considered by the Respondent/Police and the Police has rejected the permission on the ground that there is possibility of law and order problem since some political party has objected for the said Conference.

The Petitioner's Organisation challenges the said impugned order before this Court in W.P.No.11788 of 2013.

Unfortunately, the said case has been periodically adjourned and the matter has been withdrawn on 30.04.2013, since the meeting date has expired.

4. Now, the Petitioner's Organisation has decided to hold the public meeting during the couRs.of their Mother God festival celebration and the same will be held from 09.05.2013 to 20.05.2013.

Accordingly, the Petitioner made a representation to the Respondent/Police on 30.04.2013 requesting them to grant permission to hold the said meeting.

It is the stand of the Petitioner that the Respondent/Police has received the representation and enquired about the earlier Writ Petition and the Police has been informed that the said Writ Petition has been withdrawn.

The Respondent/Police instructed the Petitioner to come later for obtaining the receipt.

However, the Police has not issued the receipt.

On 02.05.2013, the Petitioner made a representation to the Superintendent of Police and the concerned Inspector of Police through Registered Post with Acknowledgment Due.

5. The main argument projected on the side of the Petitioner is that the Petitioner in the representation, dated 02.05.2013, addressed to the Respondent/Police has clearly mentioned that the Petitioner's Organisation will not be conducting a political meeting and categorically mentioned that the meeting is in regard to their Mother God, viz., Madhurai Veeran, who was the freedom fighter at the time of colonial regime and also made mention of the speakeRs.names in the representation.

According to the Learned Counsel for the Petitioner, those speakers do not belong to any political party.

Inasmuch as the Respondent/Police has not granted permission on the petitioner's representation, dated 02.05.2013, the Petitioner has chosen to file the instant Writ Petition.

6.The main contention advanced on behalf of the Petitioner is that the Constitution of India has provided a right to every citizen of India to hold meeting under Article 19(1)(a) as a fundamental right.

Therefore, the delay caused by the Respondent/Police in not granting permission to hold the meeting cannot hold water in the eye of law.

Also, the Learned Counsel for the Petitioner relied on Article 19(2) of the Constitution and contends that the Right to Freedom of Expression cannot be suppressed on any count.

7.To lend support to the contention that the right of a citizen to conduct public meeting cannot be curtailed except on definite reasons and not on mere surmises, the learned counsel for the petitioner cites the decision of this court reported in (2013) 3 MLJ513[DB].[The Home Secretary,Government of Tamil Nadu,Secretariat, Fort St.George,Chennai 600 009 and three others versus Era.Selvam and another].wherein it is inter alia held that Article 19(1)(a) of the Constitution guarantees to all citizens, right to freedom of speech and expression subject to reasonable restrictions on the ground set out under Article 19 (2).However, it is also laid down that ".rights of citizens to conduct procession and public meeting cannot be curtailed, except on definite reasons but not on mere surmises".8.The learned Special Government Pleader appearing for the Respondent submits that some time may be granted to the Respondent/Police to consider the representation of the petitioner's organisation dated 02.05.2013.

9.This Court has heard the Learned Counsel appearing for the Petitioner and the Learned Special Government Pleader appearing for the Respondent.

10.At this stage, this Court aptly points out that in paragraph No.7 of the decision reported in (2013) 3 MLJ513[DB].[The Home Secretary,Government of Tamil Nadu,Secretariat, Fort St.George,Chennai 600 009 and three others versus Era.Selvam and another].at page Nos.515 and 516, it is held as under: ".7.

From the perusal of the order of the learned single Judge it could be seen that learned single Judge has ordered to regulate and control the procession without

causing any hindrance to general public; procession should move quietly and peacefully; no words, actions, expressions shall be made by the writ petitioners and others affecting the sentiments of others. the speakers can focus only on general topic and shall not speak on any other topics and on other parties/leaders. after the meeting people shall quietly disperse, without causing disturbance to people in and around and to general public; the vehicles shall be permitted to be parked in Marina area and police shall do the needful; and the cars and vehicles shall not be brought to the place of meeting.

The leader of the party, who was present in the Court gave an undertaking to control the entire cadre while conducting procession and meeting and his undertaking was also recorded in the order.

The police was directed to provide adequate protection to avoid untoward incidents."

11. On a careful consideration of respective contentions and on overall assessment of the facts and attendant circumstances of the present case, this Court is of the considered view that the Petitioner has made the representation on 02.05.2013 to conduct public meeting on any one of the days between 09.05.2013 and 20.05.2013.

Admittedly, there appears to be inaction on the part of the Respondent/Police in not acting on the representation made by the Petitioner dated 02.05.2013.

12. At this juncture, it has to be borne in mind that the Petitioner, on an earlier occasion on 04.04.2013, through Secretary has given a representation to the Respondent/Police for conduct of public meeting, in the subject matter in issue, to be held on 28.04.2013 at about 6.00 p.m in front of Municipality Mandapam, which is situated in Thuraiyur Road at Namakkal.

But the Respondent/Police has considered the representation and rejected the permission on the ground of law and order problem etc. Ultimately the petitioner filed W.P.No.11788 of 2013 and the same has been dismissed as withdrawn on 30.04.2013, since the meeting dated 28.04.2013 at 6.00 p.m has expired.

13. In the upshot of discussion and considering the entire gamut of the matter, coupled with the facts and circumstances of the present case, this Court grants permission to the petitioner to hold the public meeting on 20.05.2013 at 5.00 pm.

at Namakkal Nagar, Mohanur Salai in front of the telephone exchange subject to the following conditions:- i. The meeting shall commence at 5.00 p.m in the aforesaid place and come to an end at 10.00 p.m and beyond that time, the Petitioner shall not conduct or proceed with the meeting on any score.

ii. In the meeting, the speakers whose names are mentioned in the representation dated 02.05.2013 addressed by the Petitioner to the Inspector of Police, City Police Station, Namakkal, are to speak about the Petitioner's Mother God, Madhurai Veeran, who is said to be the freedom fighter at the time of colonial regime and the speakers are directed not to side track on any other topic that would affect the interest of other community or party or leaders. iii. In the meeting the speakers should not express words, actions, expressions affecting the sentiments of others. iv. The Petitioner/District President of the Adhi Thamizhar Peravai is directed to give an undertaking before the respondent/police that he shall control the speakers who are to speak in the meeting.

v. The Respondent/Police is directed to record the undertaking to be given by the Petitioner.

vi. The Respondent/Police is directed to provide necessary and adequate protection in the conduct of public meeting, as referred to supra, so that no untoward incident takes place.

vii. After the meeting, the people shall quietly disperse without causing disturbance to any people in and around that area and the general public.

viii. If there is any violation of the undertaking given by the Petitioner or by any other person, the Respondent/Police is entitled to deal with them to preserve maintenance of peace and tranquility and it is open to them to initiate appropriate action against the violators in accordance with law."

14.The above order is passed only to facilitate both the Petitioner and the Respondent to do the requisite needful inasmuch as the public meeting is related to be held on 20.05.2013 at 5.00 p.m.15.With the above directions, the writ petition stands disposed of.

No costs.

bs/vj2 To The Inspector of Police Namakkal Town Police Station Namakkal

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