

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.06.2018

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P.(MD) No.11768 of 2018

PL.Ramaiah

... Petitioner

-VS-

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Sub-Collector,
Devakottai,
Sivagangai District.
3. The Tahsildar,
Thiruppathur Taluk,
Sivagangai District.
4. The Secretary,
Animal Welfare Board,
No.13/1, 3rd Sea Ward Road,
Thiruvanmiyur, Chennai.

... Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in Na.Ka.D1/23118/2017 dated 22.05.2018 and quash the same and consequently directing the 1st respondent to grant permission and necessary protection for conducting the Jallikattu at Poolankurichi Village, Thiruppathur Taluk, Sivagangai District on the eve of Sri Angala Parameswari, Sri Kanavai Karuppar Swamy Temple festival on 10/06/2018 or any other subsequent convenient date.

For Petitioner : Mr.K.Mahendran
For R1 to R3 : Mr.V.R.Shanmuganathan
Spl. Govt. Pleader

ORDER

This writ petition has been filed, seeking to quash the impugned order passed by the 1st respondent in Na.Ka.D1/23118/2017 dated 22.05.2018, by which, 1st respondent refused to grant permission and necessary protection for conducting the Jallikattu at Poolankurichi Village, Thiruppathur Taluk, Sivagangai District. The petitioner also sought a direction to the 1st respondent to grant permission and necessary protection for conducting the Jallikattu at Poolankurichi Village, Thiruppathur Taluk, Sivagangai District on the eve of Sri Angala Parameswari, Sri Kanavai Karuppar Swamy Temple festival on 10.06.2018 or any other subsequent convenient date

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents 1 to 3. The notice to other side is dispensed with, in view of the nature of disposal of this case.

3. The case of the Petitioner is that he is the Trustee of the temple namely Sri Angala Parameswari, Sri Kanavai Karuppasamy which is situated at Poolankurichi village, Sivagangai district. In their village they used to conduct

temple festival of above said deity during the month of Chithirai and Vaigasi and the said festival ends with Jallikattu. The Petitioner's villagers conducted Jallikattu till 2009 and thereafter in view of the ban of Hon'ble Apex Court it was not conducted. Since the State of Tamil Nadu passed a Government order in GO.MS.No: 7, Animal Husbandry Dairying and Fishery (AH3) , department dated 21.01.2017 wherein Government of Tamil Nadu framed Rule which is called as Tamil Nadu Prevention of Cruelty to Animals (Conduct of Jallikattu) Rules, 2017. By virtue of the said Rule the conduct of Jallikattu has been permitted across Tamil Nadu. The said Rule prescribes certain conditions for conducting Jallikattu.

4. After enactment of the above said Rule, from 2017 onwards the concerned District Collectors grant permission to conduct Jallikattu. Similarly the Petitioner's villagers decided to conduct Jallikattu on 10.06.2018 on the eve of festival of Sri Angala Parameswari, Sri Kanavai Karuppasamy which is situated at Poolankurichi village, Sivagangai district. In order to get permission the Petitioner has submitted a representation on 24.04.2018 to the 1st Respondent after making elaborate arrangements to conduct Jallikattu. However the 1st Respondent refused to grant permission on the ground that the Petitioner has not made arrangements as per the conditions stipulated in G.O.MS.No: 7, Animal Husbandry Dairying and Fishery (AH3), department dated 21.01.2017. Being aggrieved over the same the impugned order has been challenged before his Court.

5. The learned counsel for the petitioner would strenuously contented that the petitioner's villagers conducted Jallikattu till 2009. Even in the impugned order of the 1st Respondent it was admitted that the petitioner's villagers had conducted Jallikattu during the years 2003 and 2004. Further the reason assigned in the impugned order is not at all justifiable since the petitioner has made elaborate arrangements as stipulated in the Government order. In fact, the place in which the proposed Jallikattu event is going to be conducted is a vast extent of land 1.85.05 Hecter which belongs to one Velu who assented permission to conduct Jallikattu in his land. The learned counsel further submitted that the Government Order cited supra no where it is stipulated the Jallikattu event should not be conducted in a private Patta land. It is also contented by the petitioner's counsel the Respondents did not inspect the proposed site properly and passed the impugned order without application of mind. Hence the learned counsel of the petitioner prayed to quash the impugned order and grant permission for conducting Jallikattu.

6. The learned Special Government Pleader on instruction would submit that the proposed Jallikattu event site is private patta land and in which no proper arrangements for cattle shed. Further it was represented that the propose site is located nearby a road and residential houses. The learned Special Government Pleader contended that the Petitioner has not arranged the place as per the above

said Government Order and therefore he is submitting that the 1st Respondent order is right. Further it was represented that the Act grants permission to conduct Jallikattu only from January to May of every calendar year. Therefore the Special Government Pleader prays for dismissal of writ petition.

7. This Court carefully considered the rival submission of either side and perused the entire records available in the bundle. At the outset, this Court would like to extract the G.O.MS.No: 7, Animal Husbandry Dairying and Fishery (AH3) , department dated 21.01.2017 for better understanding of the issue.

“3. PROCEDURE FOR CONDUCT OF JALLIKATTU

(1) Any individual, organization or group, herein called as organisers, intending to conduct Jallikattu in such places and on such days as may be notified by the Government under clause (dd) of section 2 of the Prevention of Cruelty to Animals Act, 1960 (Central Act 59 of 1960), shall inform in writing to the Collector of the District.

(2) The organizers shall also obtain prior permission from the Collector for the persons as well as their bulls for participating in the Jallikattu event. The Collector shall ensure that the names and other particulars of the participants in the Jallikattu are registered.

(3) The Collector shall, on grant of permission for any Jallikattu, cause an inspection of the venue selected for the conduct of Jallikattu.

(4) The Collector shall form a ‘Committee on Jallikattu’ comprising of officials from Revenue, Animal Husbandry, Police and Health Departments to oversee and monitor the conduct of Jallikattu

and ensure that the Jallikattu is conducted in conformity with these rules.

(5) The organizers shall ensure that the bulls are put to proper test by the authorities of the Animal Husbandry Department and that no performance enhancement drugs, irritants, etc. are administered to the bulls in any form.

(6) The Collector shall, with the assistance of experts of Animal Husbandry Department, ensure that the bulls are free from any diseases and not intoxicated or administered with any substance with the object of making them more aggressive or ferocious.

(7) **The organizers shall conduct Jallikattu in a open ground with the following facilities.** (a) The bulls shall be provided rest for a minimum of 20 minutes before they are brought into the arena. (b) In the holding area, each bull shall be provided adequate space to exhibit the normal behaviour. Each bull shall be provided a minimum space of 60 square feet. Adequate feed and water shall be provided to the bulls and they shall be allowed to perform their normal physiological functions. The owner of the bull shall always be by the side of the bull to assure the psychological safety and security of the bull. (c) The bulls shall be under the constant monitoring of Veterinarians of the Animal Husbandry Department and Police Personnel to ensure the safety, security and the well being of the bulls. The bulls shall be thoroughly observed for any physical injuries to the body parts like mutilated ears, fractured tail, etc. by Veterinarians of the Animal Husbandry Department. If any injury is found, they shall not be permitted to participate in the event and shall be sent back. (e) The bull holding area shall be provided with adequate roofing (shamiana / thatched roof) so as to protect the bulls from rain or sunlight. (f) The holding area shall be maintained neat, clean and hygienic. All wastes like dung and organic wastes shall be cleared then and there and disinfectants shall be used liberally to ensure complete hygiene. (g) Closed circuit cameras shall be fixed at vantage points and all the activities shall be monitored and recorded.

4. EXAMINATION OF BULLS :-

(1) The bulls shall be compulsorily subjected to veterinary examination by the qualified veterinarians of Animal Husbandry Department.

(2) The participating bulls shall be examined for general health by clinical examination. Bulls showing symptoms of fatigue, dehydration, restlessness, etc. shall be identified and not permitted to participate further in the event.

(3) The bulls shall also be specifically examined for possible alcohol abuse and any animal which is subjected to such abuse shall not be permitted to participate in the event.

(4) The bulls shall be taken to the entry point from where their nose ropes shall be undone by the owners and the bull is let inside the arena.

(5) The bull examination area shall be provided with roofing (shamiana / thatched roof) so as to protect the bulls from rain or sunlight.

5. ARENA: (1) Arena shall be atleast a 50 square metre area. The bulls have to be embraced by the participants within this 50 square metre area. (2) The participants shall not be permitted to stand in front of the bulls as they enter the arena. They shall also not be permitted to block the exit way for the bulls. The participants shall be permitted only to embrace the bulls by their hump and run along with the bull for 15 metres or for 30 seconds or sustain three jumps of the bull. The participants shall not hold on to the tail, horns using their hands or restrict the movement of the bulls by holding on to the bulls' legs. The participants violating these guidelines shall be liable to be debarred from participating further in the event. The 15 metre area shall be liberally strewn with coir pith for cushioning effect to prevent any injuries to the bulls or participants.

6. BULL RUN AREA: (1) The area after the bull embrace area upto the Bull collection yard is the Bull Run area. A strong double barricade should separate the galleries from the arena. The

spectator gallery shall be constructed from atleast 15 metres beyond the point where the bulls are released so as to minimise the noise from the spectators at the time of the bull release. (2) After the run of 15 metres, when the bulls enter the bull run area, the participants are not to be allowed to touch the bulls. The Bull Run area should cover a minimum of 100 metres length to facilitate the bulls to the exit without any anxiety into the collection yard. The entire activity starting from entry of the bulls into the arena upto the bull collection yard shall be completed in 60 to 120 seconds.

7. BULL COLLECTION YARD: (1) The bull collection yard shall be made out of bounds for others. Only the bull owners or their authorised personnel shall be allowed to enter the bull collection yard. A minimum of 60 square feet area shall be made available for each bull and at a time. The bulls after completing the run will enter the collection yard, which shall also be a double barricaded area. The owner or a person authorised by the owner who is familiar with the bull shall receive the bull at the collection yard and peg it. Water and feed shall be provided to the bull. After ensuring adequate rest for the bull (minimum of 20 minutes), the bulls shall be taken back home by the owners. (2) The bull collection yard shall be provided with roofing (shamiana / thatched roof) so as to protect the bulls from rain or sunlight. Closed circuit cameras shall be fixed at vantage points in the bull collection area and all the activities shall be recorded. A Veterinary team shall be posted in the collection yard so as to provide immediate attention to the bulls that have completed the event. A posse of police personnel shall also be present in the collection area.

8. SETTING UP OF GALLERY :- (1) The organizers shall fix up the gallery for the spectators to sit and watch the event and the gallery shall be made with strong structures duly certified by the Public Works Department officials. (2) The Collector shall ensure double barricading of the arena at the minimum of eight feet height so that bulls will not jump the double barricading and cause injuries to the spectators. (3) The Collector shall ensure that the number of spectators in the gallery shall not exceed the limit prescribed by the Public Works Department.

9. MISCELLANEOUS :- (1) The participants shall be put to thorough check up by a medical team constituted by the Collector just before they enter into the arena. The Collector shall ensure that every participant wears an exclusive dress for the purpose of identification with necessary identification card. The Collector shall ensure deployment of additional medical facilities like extra ambulance vehicle, serving doctors, veterinarians etc., for ensuring the safety of the participants as well as the bulls. The Collector shall strictly ensure that the bulls are not physically abused just before it is released into the arena. Further, the nose rope / face rope of the bull should be snapped only by the owner or his representative in the presence of the authorised officials. (2) All the structures in the arena including barricades, bull collection yard, etc., wherein the bulls might come in contact during the conduct of the event must not have sharp protruding ends that might cause injuries to the bulls. (3) Emergency exits to facilitate swift removal of bulls must be provided. Provision for emergency transportation of participants as well as bulls in case of medical emergencies must be ensured at the venue. (4) The Collector shall ensure to videograph the entire event and provide the same to the Government as and when required”

8. A perusal of Government Order would disclose that any individual, organization or group intending to conduct Jallikattu could seek permission from the District Collector. Nowhere in the said Government Order is stipulate condition Patta land should not be used for conducting Jallikattu event and further there no restriction in the Government Order that the site should not be located nearby road

and residential area. It is quiet surprising us to see the instruction notes circulated to us which was addressed to the Government Pleader of this Court wherein it is stated that Jallikattu site should not be located nearby road and residential area. In fact, we have seen from media that the famous Alanganallur and Palamedu area Jallikattu have been conducted in thickly population area. Therefore there is no justification on the part of the Respondent to reject the Jallikattu even on the ground of Jallikattu site should not be located nearby road and residential area. But at the same time we are also conscious of the safety measures to be followed at the time of Jallikattu for bull tamers and visitors. In this regard the 1st Respondent has power under above said Rule to impose conditions and the same should be scrupulously followed by the organizers. Further this court has seen that the organizer has made arrangements to conduct Jallikattu in a private land 1.85.05 Hector which is more than sufficient. It is true that the Section 2(dd) of the Prevention of Cruelty to Animals Act, 1960 describes "Jallikattu" means an event involving bulls conducted with a view to follow tradition and culture on such days from the months of January to May of a calendar year and in such places, as may be notified by the State Government, and includes Manjuviratu, Vadamadu and Erudhuvidumvizha. Admittedly in this case representation was given on 24.04.2018 and therefore Petitioner cannot be denied permission on the ground of period i.,e January to May. Since the Petitioner gave application before the month of May, 2018

and hence the authority has to consider the petitioner's representation along with the above said Rule. At the same time this Court cannot accept the reasons assigned in the impugned order by the 1st Respondent and so it is liable to be quashed.

9. In view of the forgoing discussion we have no hesitation to quash the impugned order of the 1st Respondent dated 22.05.2018. However the Petitioner shall comply with all the conditions stipulated in the GO.MS.No: 7, Animal Husbandry Dairying and Fishery (AH3) , department dated 21.01.2017.

10. In the result, this writ petition is allowed with the following directions:

(a) The impugned order passed by the 1st Respondent in Na.KA.No: D. 1/23118/2017 dated 22.05.2018 is hereby quashed.

(b) The Petitioner is directed to make all necessary arrangements and comply with the conditions stipulated in the G.O.MS.No: 7, Animal Husbandry Dairying and Fishery (AH3), department dated 21.01.2017 within three days and after making all the necessary arrangements and the same shall be informed to the 1st Respondent by way of writing, and

M.V.MURALIDARAN,J.,
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(c) On receipt of the same the 1st Respondent is directed to make spot inspection within a period of two days and accord permission provided all the conditions are complied with, as per G.O.MS.No:7, Animal Husbandry Dairying and Fishery (AH3), department dated 21.01.2017 by the petitioner.

There shall be order of costs.

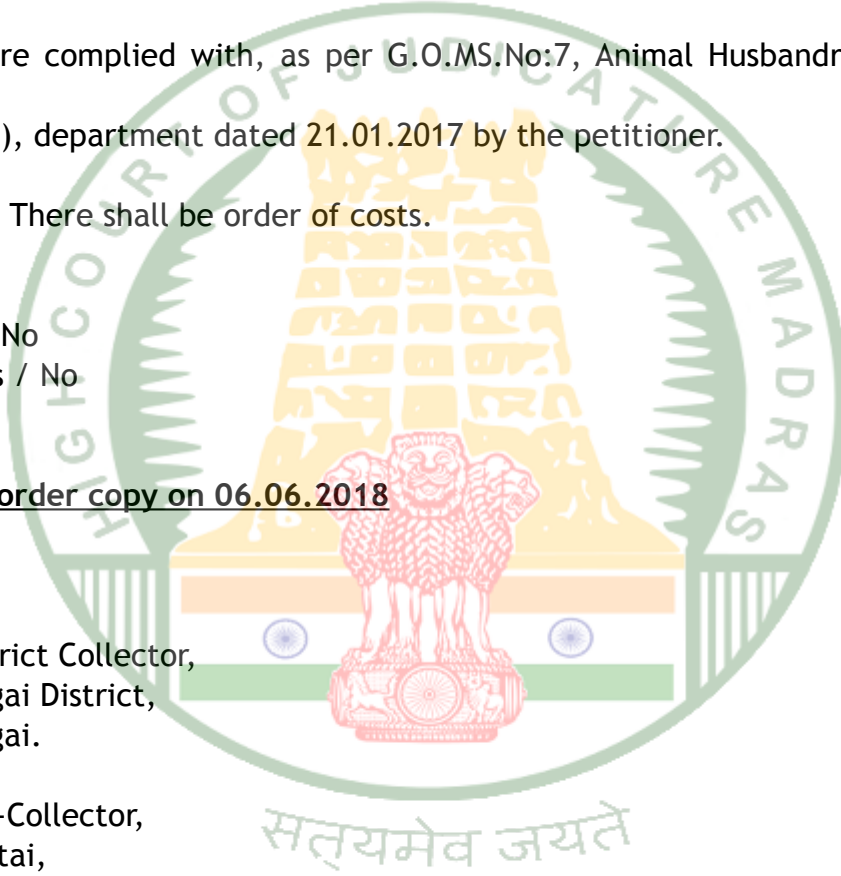
01.06.2018

Index: Yes / No
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Note: Issue order copy on 06.06.2018

To:

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Sub-Collector,
Devakottai,
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