BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A(MD)No.1673 of 2025
and
C.M.P(MD)No.9366 of 2025

M.Arasupandi ... Appellant / Petitioner

Vs.

1.The Commissioner of Police,
Madurai City Police,
Madurai – 2.

2.The Assistant Commissioner of Police,
Anna Nagar Circle,
Anna Nagar,
Madurai.

3.The Inspector of Police,
Anna Nagar Police Station,
Madurai. ... Respondents / Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 13.06.2023 passed in Writ Petition Crl(MD)No.185 of 2025 and allow the above writ petition by allowing this Appeal.

For Appellant : Mr.N.Ananthapadmanabhan
Senior Advocate
Mr.K.P.S.Palanivelrajan
Senior Advocate
for Mr.M.Karthikeya Venkitachalapathy

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by
Mr.T.Senthil Kumar
Additional Public Prosecutor

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

This Writ Appeal is directed against the order dated 13.06.2025 made in W.P.Crl(MD)No.185 of 2025. Hindu Munnani has proposed to conduct a conference of the devotees of Lord Muruga on 22.06.2025 from 03.00 p.m to 08.00 p.m in the city of Madurai near Vandiyur Toll Plaza, Pandi Kovil Ring Road. Permission for conducting the conference had been granted by the Assistant Commissioner of Police, Anna Nagar Range, Madurai Greater City (North) vide proceedings dated 12.06.2025. However, it was subject to as many as 52 conditions. The organisers feel aggrieved by condition No.7. It reads as follows:

“மாநாட்டிற்கு வரும் வாகனங்கள் அந்தந்த மாவட்டத்திற்குட்பட்ட

உட்கோட்ட காவல் துணை கண்காணிப்பாளர் அலுவலகத்தில் முறையாக விண்ணப்பித்து உரிய ஆவணங்களை (RC Book, Driving License, Aadhar Card) சமர்பித்து Vehicle Pass பெற்றே மாநாட்டிற்கு வரவேண்டும். ஒவ்வொரு மண்டலத்திற்கென்று வெவ்வேறு நிற Pass-கள் வழங்கப்படும். முறையே தெற்கு மண்டலத்திற்கு பச்சை நறமும் வடக்கு மண்டலத்திற்கு வெள்ளை நிறமும் மத்திய மண்டலத்திற்கு நீல நிறமும் மேற்கு மண்டலத்திற்கு மஞ்சள் நிறமும் பிற மாநிலங்களுக்கு சிவப்பு நிற Pass-களும் வழங்கப்படும். அவ்வாறு Vehicle Pass பெறாமல் மாநாட்டிற்கு வரும் வாகனங்கள் மதுரை மாநகருக்குள் அனுமதிக்கப்பட மாட்டாது.”

Questioning the said condition, the appellant filed W.P.Crl(MD)No.185 of 2025. The learned single Judge however declined to interfere with the said condition. The learned single Judge observed as follows:

“28.The learned Senior Counsel for the petitioner has raised serious objections with regard to condition No.7 that apart from the members of their organisation, common devotees may also attend the event and it would be difficult for the common devotees to approach the Deputy Superintendent of Police to apply and to obtain vehicle pass. This condition, according to the learned Additional Advocate General is only to organise the vehicles, which are supposed to take part in the event and also to prevent any vehicle procession.

29.The learned Senior Counsel for the petitioner

submits that they are not having plan to conduct vehicle procession in any form. This Court is of the view that this condition has been imposed in order to regulate the vehicles which are likely to participate in the event. If any participant applies for the vehicle pass, the police officer concerned shall issue the vehicle pass within 24 hours of the application. There is no reason to interfere with the condition. In the event, if the police refuse to grant vehicle pass, it has to be rejected with valid reasons."

Aggrieved by the same, the appellant herein moved the Hon'ble Supreme Court of India by filing S.L.P(Crl)No.009176-009177 of 2025. It was disposed of in the following terms:

> "1. Mr.Sidharth Luthra, learned senior counsel submits that recently the High Court has taken a view that the nature of orders which are assailed in the instant special leave petitions are amenable to challenge in the Letters Patent Jurisdiction.
>
> 2. He, thus, prays for liberty to withdraw the instant special leave petitions so that the petitioner can avail suitable remedy before the High Court.
>
> 3. Accordingly, the special leave petitions are disposed of as withdrawn with liberty, as prayed for."

Availing the liberty granted by the Hon'ble Supreme Court, this Writ Appeal has been filed.

2.The learned Senior Counsel appearing for the appellant primarily

contended that the imposition of the impugned condition is violative of the fundamental right guaranteed under Article 19(1)(d) of the Constitution of India. According to him, this condition is unreasonable and onerous. He also contended that the Assistant Commissioner, Anna Nagar Range, Madurai City lacks the jurisdiction to stipulate such a condition. He pointed out that when similar conferences far greater in magnitude were organized in Madurai City in the very recent past by the political parties, such a condition had not been stipulated. He also cited certain practical difficulties in complying with the impugned condition. He lamented that the Police authorities are making the pass-applicants run from pillar to post. The Police are said to be deliberately delaying the issuance of passes. According to him, the object of the State appears to be to put spokes in the wheels and discourage the participants from attending the conference. He called upon this Court to intervene in this matter.

3.Per contra, the learned Additional Advocate General submitted that the authority is very much competent to impose such a condition. According to him, the right to participate is not being denied. On the other hand, it is only being regulated to maintain law and order. He relied on Section 41(1) of the Madras City Police Act, 1888 in support of his contention. He called upon us to sustain the impugned condition and dismiss this Writ Appeal.

4.We carefully considered the rival contentions and went through the materials on record.

5.We read and re-read the said condition. It states that no vehicle carrying the conference participants without a vehicle pass will be allowed to enter Madurai City limits. It also states that such a vehicle pass has to be obtained from the respective offices of Deputy Superintendent of Police. The applicants have to submit RC book, driving license and Aadhar card. We fail to understand as to how such a condition could have been imposed by the Assistant Commissioner of Police, Anna Nagar Circle, Madurai in the first place. An Assistant Commissioner can have jurisdiction and sway only over her territorial limits. She could not have issued an order preventing entry of vehicles into Madurai city. Right to movement throughout the territory of India is guaranteed to all citizens under Article 19(1)(d) of the Constitution of India. It is open to any citizen to enter Madurai city in his/her vehicle and such a right cannot be interfered with by an Assistant Commissioner of Police.

6.The learned Additional Advocate General would claim that Section 41(1) of the City Police Act, 1888 confers such a power. The said provision

reads as follows:

> *"**Section 41 - Power to regulate assemblies, meetings and processions in public places, etc.***
>
> *(1) The Commissioner or, subject to his orders, any Police Officer above the rank of head constable, may, from time to time, as occasion may require direct the conduct of all assemblies, meetings and processions in public places ; prescribe the routes by which and the times at which such processions may pass ; keep order in public places and prevent obstructions on the occasion of such assemblies, meetings and processions, and in the neighbourhood of places of worship during the time of public worship and in any case when public places may be thronged or liable to be obstructed ; and may licence and regulate or prohibit the use of music or of sound amplifiers in any area."*

7.Let us now parse the above provision: The Commissioner or any Police officer above the rank of head constable may -

a) direct the conduct of all assemblies, meetings and processions in public places ;

b) prescribe the routes by which and the times at which such processions may pass ;

c) keep order in public places and prevent obstructions on the occasion of such assemblies, meetings and processions, and in the neighbourhood of places of worship during the time of public worship and in any case when public places may be thronged or

liable to be obstructed ;

d) may licence and regulate or prohibit the use of music or of sound amplifiers in any area.

8.The above provision can be understood to confer power on the officer concerned to deal with meetings and processions within his/her jurisdiction. No officer exercising power under this said provision can pass an order having operation beyond his/her territorial limits. An Assistant Commissioner, Anna Nagar Range, does not have sway over the entire Madurai city. In any event, she cannot forbid entry of motor vehicles into Madurai city. The impugned condition has to go on the sole ground of jurisdiction.

9.The learned Additional Advocate General vehemently contended that the impugned condition cannot be said to be unreasonable. He, of course, does not deny that when conferences were conducted by certain political parties in Madurai city recently, no such condition was imposed. Article 19(1)(d) states that all citizens shall have the right to move freely throughout the territory of India. Of course, this fundamental right is not an absolute right. It is subject to the restriction set out in Article 19(5) of the Constitution of India. Article 19(5) is as follows:

"19. Protection of certain rights regarding freedom of speech, etc.

(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe."

10.Thus the right of movement can be curtailed only on two grounds:

a) interest of general public

b) protection of interests of scheduled tribe

11.We have to see if such a condition had been imposed by a competent authority, it can pass muster. The authorities themselves have chosen to grant permission for holding the conference. Thus no exception can be taken to the conduct of the event. The organisers have made it clear that the event would be religious in character and that no negative note would be struck. It is in this background, the validity of the impugned condition has to be examined. If a banned meeting is to be held, and persons are expected to converge in the venue from various places, the competent authority can certainly impose a condition regarding the entry of vehicles or even the movement of people. Such is not the case here.

12.When the election commission clamped order under Section 144 of Cr.P.C throughout the Union Territory of Pondicherry, it was challenged by a political party in W.P.No.8980 of 2021. The Hon'ble First bench vide order dated 04.04.2021 observed as follows:

> *"8. Thankfully, this country allows expansive freedom to its citizens and, as the Constitution provides, there cannot be any authoritarian regime possible in the country nor any regimentation of the citizens or their lives. However, for the purpose of maintaining law and order and in public interest, certain restrictions may be imposed; but such restrictions have always to be reasonable, proportional to the anticipated problem and the decision in such regard is always justiciable.*
>
> *9. Every citizen in a free country can do anything lawful that the citizen chooses and even the slightest of restriction on the citizens' movement has to be justified. .."*

13.In the case on hand, no justification has been shown in support of the impugned condition. It is neither reasonable nor proportionate. The authorities have not specified the problems anticipated by them and not demonstrated as to how insistence on vehicle passes would quell the problem. On the other hand, we are satisfied that grave inconvenience will be caused to the participants. A person can decide to attend the conference even a day before the event. The conference is to be held only from 03.00 p.m to 08.00 p.m. A person residing in

Ramanathapuram may decide to attend the conference literally at the last moment. He may like to drive down to Madurai in his car. If the impugned condition is upheld, his right to attend the conference will be taken away. Article 19(1)(b) states that all citizens shall have the right to assemble peaceably and without arms. Thus the fundamental right guaranteed under this Article is also involved.

14.We are a republican democracy. Just as ease of doing business is important, the ease of participation in democratic gatherings is equally vital. The authorities ought not to come in the way of the citizens exercising their democratic right. Calling upon the citizen to go the office of the DSP and take a pass may not look objectionable on the face of it. But in reality, things work out otherwise. The learned senior counsel recounted some of the experiences. An applicant went to the office of the DSP who asked him to go to the jurisdictional Inspector. The jurisdictional Inspector in turn asked him to come the next day. It is not easy to walk into the office of a DSP. One has to wait sometime, even for hours together. Why should a citizen who is entitled to participate in a conference which has been legally permitted to be conducted be subjected to such inconveniences? This in our view is not a proportionate or reasonable approach towards the issue.

15.In ***P.Nedumaran Vs State of Tamil Nadu [1999 (1) L.W.(CRI) 73]***, it was observed as follows:

> *"Para 15: "The rights conferred on the citizens by Article 19 of the Constitution are precious rights and are not to be lightly breached or restricted by the State or any functionary of the State. Any regulation of exercise of those rights must be for the purposes specified in Article 19 of the Constitution itself, and that power must be so exercised as to subserve the larger public good. The power to impose restrictions is not the power which is available for exercise in an arbitrary manner or for the purpose of promoting the interest of those in power, or for suppressing dissent Democracy can be made dynamic an truly alive only when there is free market for ideas and discussion and debate is not only permitted but is encouraged. All expression of opposing view point cannot be regarded as dangerous to the safety or security of the country and all expressions which do not find the approval of those exercising the power of the State cannot be regarded as harmful to the State and to the public order.*
>
> *Para 16: The power conferred on the Commissioner under Section 41 of the Madras City Police Act is sweeping, that power is meant to be exercised with great care and caution. The Madras City Police Act is a pre-Constitution enactment, and the powers conferred on the authorities at a time when the country was under the colonial regime, and during the period when suppression of dissent was considered to be a legitimate policy of the State, cannot be exercised after the enactment of the Constitution in the same manner, as it was exercised earlier. The Intelligence Report placed before the Court shows that the police still*

have the attitude which does not seem to recognise that the country is a democratic nation, where every citizen has a right to full and equal participation in the process of Government. No citizen can be regarded as an enemy of the State merely because he has voiced a view which is not the one favoured by those in authority.

Para 17: The fact that the police are vested with power should not make them assume that, that power is available for exercise in any manner that they consider fit. That power is to be exercised strictly within the ambit of the provisions of the Constitution, more particularly, the requirement that any restriction placed on the exercise of fundamental rights should be a reasonable restriction, and the restrictions so placed should be shown to be essential, having regard to the permissible purpose for which restrictions may be imposed."

The aforesaid observations were approved by the Hon'ble Division Bench in ***C.J.Rajan Vs Deputy Superintendent of Police (W.P.No.13681 of 2007***).

16.If the object of the Police authority is to gather the details and particulars about the vehicles entering the area where the event is to be held, it can be very easily achieved by employing a very simple technology such as scanning the license plates of vehicles. From this, information about the owners can be easily obtained. In the case on hand, not more than 10,000 vehicles are expected and therefore, there is no need to impose such an onerous condition. At the end of the day, the constitutional Courts have to balance the fundamental rights of the citizens with the larger public interest. It has not been

shown to us as to how the impugned condition would serve larger public interest at all. Though the learned Additional Advocate General would claim that the impugned condition is only regulatory, in effect it would result in discouraging the participants from easily accessing the conference venue.

17.To address the concerns expressed by the authorities, the appellant had undertaken that the participants who come in their personal vehicles or hired vehicles would deposit the photostat copies of RC book, insurance certificate and driving license in the Police booths maintained by the Madurai city Police at the various parking places earmarked by the event organiser. The organisers undertake to extend their fullest co-operation in ensuring that the event takes place peacefully. The undertaking affidavit filed by the appellant is taken on record.

18.We cannot lose sight of the fact that a religious assembly is proposed to be held. It may not be at a recognized place of worship. But then, the character of the conference will have to be borne in mind. We have intervened primarily for two reasons: a) lack of jurisdiction on the part of the Police officer who stipulated the impugned condition and b) the lack of justification. The impugned condition imposed by the Assistant Commissioner of Police is not a statutory provision for us to read it down and sustain the same. Either the

condition stays as a whole or it goes. Once we find that the Assistant Commissioner could not have issued a blanket prohibitory order restraining the entry of vehicles into Madurai city without a vehicle pass for the conference participants, then we have to necessarily strike it down. We are of the view that the fundamental rights of the citizens cannot be interfered with without strong reasons which are totally absent in this case. We make it clear that the scope of this writ petition is confined to the power of the Assistant Commissioner of Police who has jurisdiction over a section of the Madurai city to pass an order of this nature. We have not touched on any other aspect. The organisers assure us that pucca arrangements have been made so that there is no stampede which was witnessed in Bangalore, Delhi and other places recently.

19.In this view of the matter, the order of the learned single Judge is modified and the impugned Condition No.7 is set aside. This Writ Appeal is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
20.06.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA
Note: Issue order copy on 20.06.2025.

W.A(MD)No.1673 of 2025

G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

MGA

To

1.The Commissioner of Police,
Madurai City Police,
Madurai – 2.

2.The Assistant Commissioner of Police,
Anna Nagar Circle,
Anna Nagar,
Madurai.

3.The Inspector of Police,
Anna Nagar Police Station,
Madurai.

W.A(MD)No.1673 of 2025
and
C.M.P(MD)No.9366 of 2025

20.06.2025