

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE HARISANKAR V. MENON
Friday, the 27th day of December 2024 / 6th pousha, 1946
WP(C) NO. 46369 OF 2024(U)

PETITIONER:

GALA DE FORT KOCHI A SOCIETY REGISTERED UNDER THE TRAVANCORE COCHIN LITERARY SCIENTIFIC AND CHARITABLE ENDOWMENT ACT, REPRESENTED BY ITS SECRETARY, N.J. ALOSHI AGED 61 YEARS, S/O N.A. JOSEPH, RESIDING AT 9/473, ST.AGNUS CONVENT ROAD, FORT KOCHI-682001.

RESPONDENTS:

1. ASSISTANT COMMISSIONER OF POLICE POLICE DEPARTMENT KERALA, OFFICE OF THE ASSISTANT COMMISSIONER OF POLICE, MATTANCHERY, PIN.682002.
2. KOCHI MUNICIPAL CORPORATION REPRESENTED BY ITS SECRETARY, PARK AVENUE ROAD, MARINE DRIVE KOCHI, ERNAKULAM-682011.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay the operation of Exhibit P2 during the pendency of this Writ Petition.

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and this court's order dated 24/12/2024 and upon hearing the arguments of M/S. M.P.SREEKRISHNAN, A.MUHAMMED MUSTHAFA & V.R.LAKSHMI, Advocates for the petitioner, SRI. C.E. UNNIKRISHNAN, SPECIAL GOVERNMENT PLEADER (By Order) and of SRI. D.G. VIPIN, STANDING COUNSEL (By Order), the court passed the following:

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HARISANKAR V. MENON, J.**W.P.(C) No.46369 of 2024**Dated this the 27th day of December, 2024**ORDER**

The petitioner, a Society registered under the Travancore Cochin Literary Scientific and Charitable Endowment Act, contends that it has been erecting an effigy of "pappani" from time immemorial at the Veli ground in Fort Kochi and burning the same during the midnight of 31st December/1st January, every year. The petitioner has filed the captioned writ petition challenging Ext.P2 dated 18.12.2024 issued by the 1st respondent herein directing the petitioner to remove the afore effigy within a time frame.

2. I have heard Sri.M.P.Sreekrishnan, the learned counsel for the petitioner, Sri. C.E.Unnikrishnan, the learned Special Government Pleader and Sri.D.G.Vipin, the learned Standing Counsel for the 2nd respondent Municipal Corporation.

3.The petitioner has filed I.A.No.1 of 2024 producing certain additional documents. The afore I.A. is allowed and the documents are taken on record. The respondents have also filed a statement, explaining their stand.

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4. After hearing the submissions made by the respective sides, I notice that the following issues arise for consideration;

- i) whether the contention of the petitioner that the effigy was being installed and burned during the previous years can be accepted?
- ii) whether the petitioner is entitled to burn the effigy, in the light of the clearances obtained by the petitioner from the respective Government Departments?

5. As regards the first issue, I notice that the petitioner along with I.A. No.1 of 2024, has filed three affidavits of the inhabitants of the locality, who are aged around 80 years. All these deponents have pointed out that the pappani was being burned at the Veli ground for the past several years. Sri.Unnikrishnan, on the other hand relies on the averments contained in the statement filed by the 1st respondent, wherein they have pointed out that such a practice was not being carried on. Sri.Unnikrishnan also refers to the fact that the ground was being used as a parking ground for those who are visiting the parade ground during the new year.

6. However, on the basis of the affidavits filed on behalf of the petitioner, as well as the averments contained in the writ

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petition, *prima facie*, I am of the opinion that the stand taken by the petitioner is to be accepted. I also notice that the 2nd respondent also supports the above case.

7. The second issue to be noticed is with respect to the clearances obtained by the petitioner. Sri.Unnikrishnan, points out that the Police authorities are justified in issuing an order in the nature of Ext.P2, taking into account the security of the persons who are coming during the new year season to the Veli ground. However, I notice that the petitioner has already obtained permission from the Municipal Corporation as seen from Ext.P3, wherein there is reference to "pappani" also. At this juncture, Sri.C.E.Unnikrishnan points out that the term "pappani" was never finding a place in the application filed by the petitioner before the 2nd respondent Corporation. But the fact remains that the term "pappani" has been specifically included in Ext.P3. In such circumstances, the contention raised by the Special Government Pleader to the afore effect, is only to be recorded and rejected. I also notice Ext.P4 relied on by the learned counsel for the petitioner, the remittances effected by the petitioner for obtaining NOC from the Fire and Safety Department, specifically with respect

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to the installation of the pappani. Similarly, Ext.P5 is also relied on by the petitioner, issued from the Electrical Inspectorate with respect to the installation of the pappani. A perusal of Ext.P5 would reveal that the same has been issued after the personal visit of the premises by the authorities concerned. In such circumstances, I am of the opinion that the petitioner, having obtained the required clearances from the Government Departments, is not to be interdicted from burning the effigy as sought for in Ext.P2.

8. In this connection I also notice that in paragraph two of the affidavit filed by the petitioner dated 27.12.2024, the petitioner has pointed out that the following safety precautions have been taken into account by them:

- i. The Pappani has been installed in Veli Ground having 7.5 Acre area.
- ii. The effigy of Pappani setup at veli has a height of 22 ft and the same has been installed in a 10ft stand.
- iii. A safety barricade has been put up keeping 42 ft circumference.
- iv. For the purpose of foreign tourist, a separate pavilion has

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been arranged. For Domestic tourists are concerned all together a different pavillion is set up; and for the General Public 280 volunteers are made ready to take safety measure.

v. 2 Medical teams are set ready from Goutharn Hospital, Chullikkal and Fathima Hospital, Perumpadappu.

vi. 2 ambulance services have been arranged.

vii. At the time of burning the effigy no crackers are used.

viii. 32 surveillance cameras have been installed in and around Veli ground and 2 monitors, one at the Police Control room of SHO Fort Kochi and one at the Corporation of Office.

I am of the opinion that the afore safety precautions noticed in the affidavit is sufficient enough, but for clause No.iii. Clause No.iii speaks about the safety barricade being put up at a distance of 42 ft circumference. In my opinion, since the height of the pappni itself is over 35 ft, it would be in the interest of all to have the safety barricade at the circumference of 70 ft from the base of the effigy. In such circumstances, the petitioner is directed to extend the security precautions mentioned in paragraph 2, with the modification as regards the requirement of the safety barricade at

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70 ft from the base of the effigy.

9. With the afore finding, I admit this writ petition. The learned Government Pleader takes notice for the 1st respondent. The learned Standing Counsel takes notice for the 2nd respondent.

There will be an interim stay of Ext.P2, in the afore circumstances. Post on 13.01.2025.

sm/



Sd/-
HARISANKAR V. MENON
JUDGE

APPENDIX OF WP(C) 46369/2024

Exhibit P2	A TRUE COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DATED 18/12/2024.
Exhibit P3	A TRUE COPY OF THE ORDER DATED 26.12.2024 ISSUED BY THE 2ND RESPONDENT
Exhibit P4	A TRUE COPY OF NOC ISSUED BY THE FIRE AND RESCUE DEPARTMENT FOR THE FIRE AND SAFETY ASSISTANCE AT THE TIME WHEN THE PAPPANI IS BURNED DATED 26.12.2024
Exhibit P5	A TRUE COPY OF THE PERMISSION GRANTED BY THE DEPARTMENT OF ELECTRICAL INSPECTORATE, OFFICE OF THE DEPUTY CHIEF ELECTRICAL INSPECTORATE DATED 24.12.2024

