

WWW.LIVELAW.IN

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Friday, the Eighth day of January Two Thousand and Twenty One

PRESENT

**The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mrs.Justice S.ANANTHI**

WP(MD) Nos.344,424 and 426 of 2021

WP (MD) No. 344 of 2021:

B.RAMKUMAR ADITYAN

... PETITIONER

Vs

THE CHIEF SECRETARY,
GOVERNMENT OF TAMIL NADU,
ST.GEORGE FORT,
CHENNAI-600 009

... RESPONDENT

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue Writ of Certiorarified Mandamus, calling for the records of the Respondent in respect of the Impugned Order in G.O. (MS)No.001 Revenue and Disaster Management (D.M.IV) Departmnet dated 4.1.2021 published in the website of the respondent and quash the same as illegal.

WP (MD) No. 424 of 2021:

S.MUTHUKUMAR

सत्यमेव जयते ... PETITIONER

Vs

- 1.THE UNION OF INDIA,
REP BY ITS SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI-110 001.
- 2.THE SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE DEPARTMENT,
NEW DELHI-110 001.
- 3.THE STATE OF TAMIL NADU,
REP BY ITS CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, CHENNAI-600 009.

4.THE SECRETARY TO GOVERNMENT OF TAMILNADU,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
SECRETARIAT, CHENNAI-600 009.

5.THE SECRETARY TO GOVERNMENT OF TAMILNADU,
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
SECRETARIAT, CHENNAI-600 009.

... RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a Writ of Certiorarified Mandamus, calling the entire records pertaining to the impugned order in GO Ms.No.001 Revenue and Disaster Management (D.M.IV) Department dated 4.1.2021 passed by the 3rd Respondent and quash the same as illegal and consequently direct the respondents 3 to 5 to adhere the directives issued by the 1st Respondent dated 28.12.2020 and 05.1.2021 to save the lives of the people of Tamil Nadu from COVID-19 infection by considering the petitioner's written email representation dated 7.01.2021 in accordance with law.

WP (MD) No. 426 of 2021:

A.BONYFACE

... PETITIONER

Vs

1.THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF HOME AFFAIRS, NORTH BLOCK,
NEW DELHI.

2.THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF HEALTH AND FAMILY WELFARE, A WING,
NIRMAN BHAVAN, NEW DELHI.

3.THE UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF INFORMATION AND BROADCASTING,
A WING SHASTRI BHAVAN, NEW DELHI.

4.THE STATE REP BY ITS
SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMILNADU,
HOME, PROHIBITION AND EXCISE (VI) DEPARTMENT,
SECRETARIAT, FORT ST.GEORGE, CHENNAI.

5.THE SATE REP BY ITS
THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF REVENUE AND DISASTER MANAGEMENT,
SECRETARIAT FORT ST.GEORGE, CHENNAI 600009.

6.THE STATE REP BY ITS WWW.LIVELAW.IN
THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF HEALTH AND SOCIAL WELFARE DEPARTMENT,
SECRETARIAT, FORT.ST.GEORGE, CHENNAI - 600009.

7.THE STATE REP BY ITS
THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF INFORMATION AND PUBLICITY,
SECRETARIAT, FORT ST.GEORGE,
CHENNAI - 600009.

... RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a Writ of Declaration declaring the impugned G.O (Ms)No.001 dated 04.01.2021 of the 5th respondent as unconstitutional, void, illegal and unenforceable.

ORDER : These petitions coming up for orders on this day, upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.S.SANKAR, Advocate for the petitioner in WP(MD)No.344 of 2021 and Mr.A.KANNAN, Advocate for the petitioner in WP(MD)No.424 of 2021 and of Mr.S.RAMSUNDARVIJAYRAJ, Advocate for the petitioner in WP(MD)No.426 of 2021 and of Mr.SAI CHARAN RENGARAJAN, Additional Advocate General assisted by Mr.K.P.KRISHNADOSS, Special Government Pleader for State Government Officials in all these petitions and Mrs.L.VICTORIA GOWRI, Assistant Solicitor General of India for Central Government Officials in WP (MD)No.424 and 426 of 2021 and Mr.K.PRABHAKARAN, Senior Counsel for Proposed Impleading Party, the court made the following order:-

(Order of the Court was made by **M.M. SUNDRESH, J.**)

Heard the learned Counsel appearing for the petitioners; the learned Senior Counsel appearing for the proposed impleading party / Tamil Nadu Theatre and Multiplex Owners Association; the learned Additional Advocate General appearing for the State; and the learned Assistant Solicitor General of India appearing for the Central Government.

2.In all these writ petitions, the petitioners primarily contend that notwithstanding the mandate of the Disaster Management Act, 2005, and the directions issued thereunder by the National Authority, a dilution has been made with respect to extending the seating capacity in the Multiplexes and Cinema Theatres from 50 % to 100 %, by the State of Tamil Nadu, without even getting adequate consultation from the Medical Experts.

3. We have perused the various communications sent by the National Authority to the State Government. These communications and instructions clearly state that there cannot be any breach of 50 % of the seating capacity in the Multiplexes and Cinema Theatres. A further communication has been sent by the Secretary to Government,

WWW.LIVELAW.IN

Ministry of Home Affairs, Government of India to the Chief Secretary of the State of Tamil Nadu to act in accordance with the guidelines. This was done, after taking note of the Government Order passed by the State Government, in G.O.(Ms)No.001, Revenue and Disaster Management (D.M.IV) Department, dated 04.01.2021, which is sought to be impugned before us.

4. Section 22 read with Section 38 of the Disaster Management Act, 2005, deal with the roles to be played by the State Government in coordination with the Central Government and the National Authority. We are, indeed, dealing with a pandemic, which does not bother about the consequential economic factors nor it respects boundaries.

5. The learned Additional Advocate General appearing for the State submitted that a clear instruction would be obtained before the next date of hearing, i.e., by 11.01.2021, particularly, with respect to the reiteration by the Central Government.

6. Though we find a *prima facie* case in favour of the petitioners, in view of the submission made by the learned Additional Advocate General, these writ petitions stand adjourned to 11.01.2021. We hope and trust that the State Government would reconsider the issue in the right perspective, before the next date of hearing.

7. In the event of the State Government taking a stand in view of the directive of the Central Government and the National Authority, the incidental issue of mitigating the loss to the Multiplexes and Cinema Theatres by increasing the number of shows may also be considered. Needless to state that while considering the said issue, the Government will have to keep in mind the requisite interregnum period, which might be required to undertake the sanitization work, based upon the report of the Experts.

8. The learned Additional Advocate General fairly submitted that these issues will also be considered and a report will be placed before this Court on the next date of hearing.

9. Post these batch of cases on **11.01.2021**. It is made clear that there cannot be any permission to run the Multiplexes and Cinema Theatres over and above 50 % of the seating capacity, in the State of Tamil Nadu, till 11.01.2021, as the pandemic does not respect time.

sd/-
08/01/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

WWW.LIVELAW.IN

1. THE SECRETARY TO GOVERNMENT OF INDIA,
UNION OF INDIA,
MINISTRY OF HOME AFFAIRS, NEW DELHI-110 001.
2. THE SECRETARY TO GOVERNMENT OF INDIA,
MINISTRY OF HEALTH AND FAMILY WELFARE DEPARTMENT,
NEW DELHI-110 001.
3. THE CHIEF SECRETARY TO GOVERNMENT,
STATE OF TAMIL NADU,
SECRETARIAT, CHENNAI-600 009.
4. THE SECRETARY TO GOVERNMENT OF TAMILNADU,
REVENUE AND DISASTER MANAGEMENT DEPARTMENT,
SECRETARIAT, CHENNAI-600 009.
5. THE SECRETARY TO GOVERNMENT OF TAMILNADU,
DEPARTMENT OF HEALTH AND FAMILY WELFARE,
SECRETARIAT, CHENNAI-600 009.
6. THE SECRETARY, UNION OF INDIA,
MINISTRY OF INFORMATION AND BROADCASTING,
A WING SHASTRI BHAVAN, NEW DELHI.
7. THE SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMILNADU,
HOME, PROHIBITION AND EXCISE (VI) DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE, CHENNAI.
8. THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF HEALTH AND SOCIAL WELFARE DEPARTMENT,
SECRETARIAT, FORT. ST. GEORGE, CHENNAI - 600009.
9. THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF INFORMATION AND PUBLICITY,
SECRETARIAT, FORT ST. GEORGE, CHENNAI - 600009.

COPY TO:

Mr. ADDITIONAL ADVOCATE GENERAL
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr. S. RAMSUNDARVIJAYRAJ Advocate SR.No.180

ORDER IN
WP(MD) Nos.344,424 and
426 of 2021
Date :08/01/2021

GK

<http://www.judis.nic.in> SAR.1/08.01.2021/5P/12C

WWW.LIVELAW.IN
W.P.No.585 of 2021

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(Order of the Court was made by *the Hon'ble Chief Justice*)

The matter pertains to the standard operating procedure to be followed during the eased period of lockdown. The petitioner assails a State Government notification of January 4, 2021 to the extent that such notification permits the seating capacity at cinemas, theatres and multiplexes to be increased from the erstwhile 50% to 100%.

2. Learned Advocate-General submits that a similar petition has been entertained by the Madurai Bench of this Court and a limited order of status-quo granted till January 11, 2021. It is, however, submitted on behalf of the State that since the number of COVID infections has been decreasing and the position in the State has quite improved, it was no longer felt necessary by the State to continue with the restriction pertaining to the cinema halls and the like.

WWW.LIVELAW.IN

3. It is heartening to notice that the number of cases has been dropping in the State. However, there is no reason to be complacent and it may be advisable to err on the side of caution. For such purpose, and since an order has already been issued by a coordinate Bench, the present position of allowing no more than 50% of the seating capacity in cinemas, theatres and multiplexes shall continue until further orders.

4. The matter will appear on 11.1.2021 before the appropriate Bench in Madurai. This matter will be tagged along with W.A. (MD) No.344 of 2021 and heard by the appropriate Bench in Madurai, since the earlier matter was entertained by the Madurai Bench.

सत्यमेव जयते

(S.B., CJ.)

(S.K.R., J.)

08.01.2021

sasi

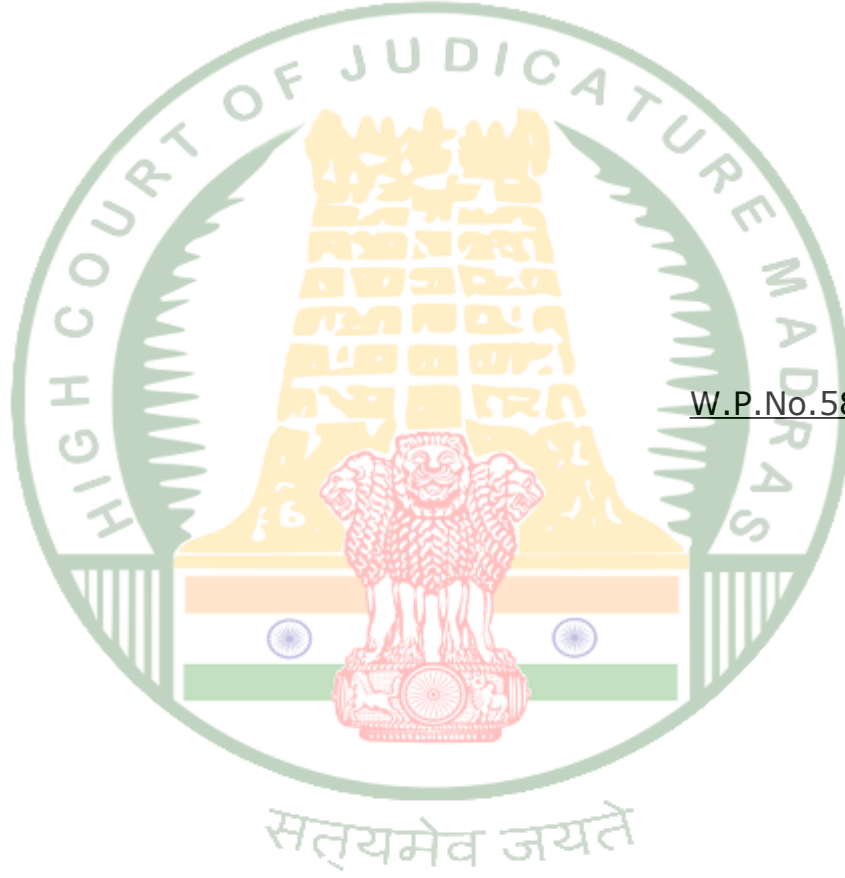
WEB COPY

W.P.No.585 of 2021

WWW.LIVELAW.IN

THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(sasi)



W.P.No.585 of 2021

WEB COPY

08.01.2021