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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
28.08.2024	18.09.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.10392 OF 2021
AND
W.M.P. NO. 295 OF 2022

Prof. Dr.Samy Thiyagarajan
President
S/o T.G.Saminathapillai
Thiruvalluvar ThirunatKhazhagam
No.48, 1st Main Road, AVM Avenue
Virugambakkam, Chennai 600 092.

..Petitioner

- Vs -

1. The Chief Secretary
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.
2. The Secretary to Government
Tamil Development & Information Dept.
Secretariat, Fort St. George
Chennai 600 009.
3. The Secretary to Government
Tourism, Culture & Religious



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Endowment Department
Secretariat, Fort St. George
Chennai 600 009.

4. The Commissioner
Hindu Religious & Charitable
Endowments Department
No.119, Uthamar Gandhi Salai
Nungambakkam, Chennai 600 034.

5. The Director
Tamil Development Department
Halls Road – Tamil Salai
Egmore, Chennai 600 008.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of declaration declaring the policy of the Government of Tamil Nadu celebrating the birthday of Tiruvalluvar in the 2nd day of Thai as null and void as mentioned in the Letter No.13038/Thava/1.2/2014-2 dated 10.04.2015 passed by the 2nd respondent and consequently affirm the Vaikasi month AnushamNatchatram as the birth day of Tiruvalluvar as per the RTI report.

For Petitioner : Mr.Dr. S.Padma

For Respondents : Mr. P.S.Raman, AG, Assisted
By Mr.L.S.M.Hasan Faizal, AGP,
for RR-1, 2 & 5
Mr. S.Ravichandran, AGP for



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RR-3 & 4

ORDER

A matter of history beckons this Court to set right in order a historical event, the birth day of the Great Saint & Tamil Poet Thiruvalluvar, which is being celebrated, according to the petitioner, on the 2nd day of the Tamil month Thai, which is not the correct day, which ought to have been celebrated on a different day, viz., on the day of the Tamil Star “Anusham” in the Tamil Month of “Vaikasi” and, therefore, the order of the 2nd in Letter No.13038/Thava/1.2/2014-2 dated 10.04.2015 deserves to be declared as null and void with a further direction to celebrate the birth day of Thiruvalluvar on the day of the Tamil Star “Anusham” in the Tamil Month of “Vaikasi”.

2. Even before embarking upon adverting to the case of the petitioner, it would be relevant to point out that the petitioner has neither complained of constitutional or statutory violation by the respondents. The grievance of the petitioner is only with regard to fixation of a date for celebrating Thiruvalluvar Day, which according to the petitioner, does not fall during the 2nd day of the



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Tamil Month of “Thai” as fixed by the respondent and, therefore, the said order requires interference.

3. In sum and substance with regard to the credentials of the petitioner, it is averred that the petitioner is a Tamil Professor with 36 years of teaching experience in Tamil Literature with a Doctorate, which was awarded for commentaries on Thirukkural, more particularly, the couplets pertaining to “Arathupal”.

4. It is the further averment of the petitioner that the Thiruvalluvar Temple at Mylapore is more than 600 years old and the birth day of Thiruvalluvar is celebrated by the public on the day of the Tamil Star “Anusham” in the Tamil Month of “Vaikasi”. It is the further averment of the petitioner that the Thiruvalluvar Thirunal Kazhakam was formed in the year 1935 by Padmasri Sri Subbaiya Pillai to celebrate the birth day of Thiruvalluvar on Vaikasi Anusham Natchathiram, which fell on 18.5.1935. The Tamil Scholar, MaraimalaiAdigal, gave the presidential address on the 18th and 19th May, 1935 in the celebration of the birth day of Thiruvalluvar on the first occasion.



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5. It is the further averment of the petitioner that Pandit K.P.Ratnam, a great Tamil scholar from Colombo, who founded “Tamil Marai Kazhakam” through which he spread the message worldwide that the birth anniversary of Thiruvalluvar must be celebrated in Anusham star in the Tamil month of Vaikasi, which was accepted worldwide and since then, it has been followed by celebrating his birth day on Vaikasi Anusham.

6. It is the further averment of the petitioner that based on a resolution passed in the first Thirukural Conference, the Government issued G.O. No.674 dated 18.3.1966 “Holidays – Celebration of Thiruvalluvar Day – 2nd June, 1966, declared a Government Holiday”. It is the further averment of the petitioner that 2nd June, 1966 fell on Vaikasi Anusham, which is the birth day of Thiruvalluvar and the statue of Thiruvalluvar near Sanskrit College, Mylapore, Chennai, was unveiled by Bharat Ratna Dr.S.Radhakrishnan, the then President of India.



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7. It is the further averment of the petitioner that the Thiruvalluvar Thirunal Kazhagam was renewed in the year 2014 and registered as Thiruvalluvar Thirunal Kazhagam on 3.7.2015 to celebrate the birth and mukthi anniversary of Thiruvalluvar. Incidentally, while the birth day of Thiruvalluvar falls on Anusham star in the Tamil Month of “Thai”, the Mukthi day falls on “Uthiram Star” in the Tamil Month of “Masi”.

8. It is the further averment of the petitioner that through an application filed under the Right to Information Act, it has been learnt that the 2nd day of the Tamil Month of “Thai” is celebrated as “Thiruvalluvar Day”, while Uthiram Star in the Tamil Month of Masi is celebrated as “Thiruvalluvar Guru Poojai” and Anusham Natchathiram in the Tamil Month of Vaikasi is celebrated as the Birth star of Thiruvalluvar. It is the further averment of the petitioner that this customary practice, which has been in vogue for more than 600 years, was changed by the then Government under the guise of a policy. As the custom and tradition in Tamil Nadu is associated with centuries of history and practice, which has been followed for number of centuries having been changed by the Government in the name of policy, the petitioner made a representation dated



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4.2.2015 to the 6th respondent for which reply was received that the said change was made as a Government policy. Thereafter, vide representation dated 10.04.2015, the petitioner addressed the 2nd respondent seeking to declare Vaikasi Anusham Star as the birth day of Thiruvalluvar for which the 2nd respondent replied that the 2nd day of the Tamil Month of Thai is declared as Thiruvalluvar Thirunal by the Government and, therefore, rejected the representation. Assailing the said order, the present petition has been filed by the petitioner.

9. Learned counsel appearing for the petitioner submitted that a practice, which had been in vogue, in celebrating the birth day of Thiruvalluvar on Anusham Star in the Tamil Month of Vaikasi, has been changed arbitrarily through a policy by the Government to the 2nd day of the Tamil Month of "Thai", which is wholly impermissible. It is the submission of the learned counsel that the birth day of an individual cannot be changed as a policy of the Government and when a tradition is followed time immemorial, forcing the followers to adapt to the policy is wholly unconstitutional and illegal and deserves to be interfered with.



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10. It is the further submission of the learned counsel that when a customary practice is followed by celebrating the birth day of Thiruvalluvar on the Anusham Star in the Tamil Month of Vaikasi, the Government, at its whims and fancies cannot arbitrarily change the date, without there being just and reasonable cause and the birth day of Thiruvalluvar has not been established as to what it is as per the policy of the Government. Further, the customary practice in celebrating the birth day of Thiruvalluvar cannot be interfered with by the policy of the Government as it undermines the sanctity and respect given to the revered saint and tamil poet.

11. It is the further submission of the learned counsel that changing the birth day of Thiruvalluvar violates the customary and conventional practices as stipulated under Article 13 (1) of the Constitution, which lays down that laws inconsistent with or in derogation of the fundamental rights be void. It is the further submission of the learned counsel that when great Tamil Scholars and researchers have organised and held the birth day celebration on 18th and 19th May, 1935, which was graced by MaraimalaiAdigal and many eminent



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personalities and a Government Order has also been issued marking the said day as the birth day of Thiruvalluvar, the Government cannot, as a matter of policy, change the birth day of the saint Thiruvalluvar for reasons best known to it and such a decision is null and void.

12. It is the further submission of the learned counsel that time immemorial the birth day of Thiruvalluvar, the great Tamil poet and saint has been celebrated in the Tamil Month of Vaikasi on the day of Anusham Star, which has been suddenly changed to the 2nd day of Thai without any reasoning, which is not only a direct infraction of the customary practices followed by the people throughout the globe, but is also against the customary practice, which has been in vogue for long.

13. It is the further submission of the learned counsel that when very many Tamil scholars have been celebrating the birth day of Thiruvalluvar on Anusham Star in the Tamil month of Vaikasi, without there being any material to establish that the said day is not the birth day of Thiruvalluvar, changing the same to the 2nd day of the Tamil Month of Thai is wholly arbitrary.



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14. It is the further submission of the learned counsel that in reply to a RTI application, the respondents have confirmed that the Tiruvalluvar Temple in Mylapore, which is under the administration of the HR & CE Department, is celebrating Thiruvalluvar birth day in the Tamil Month of Vaikasi during the Anusham Star, which is on record, but without adverting to the said material, declaring the 2nd day of the Tamil Month of Thai as Thiruvalluvar Day is wholly erroneous and is against public policy. The said policy not only prejudices the petitioner, but also hurts the faith and sentiments of millions of Tamils all over the globe and the said policy, being bereft of reasons and is opposed to customary practice, the same requires to be interfered with by this Court.

15. Per contra, learned Advocate General appearing for respondents 1, 2 and 5, while pointing out the sequence of events in the issuance of various Government Orders relating to the celebration of Thiruvalluvar day, submitted that initially, G.O. Ms. No.674, Public (General M) dated 18.3.1966, considering the views expressed by the public and NGGO's as also the Secretariat Association, the Thiruvalluvar Mukthi day, which fell on Vaikasi Anusham was



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declared as a public holiday and the stand of the petitioner that for over 600 years, Vaikasi Anusham was celebrated as Thiruvalluvar Birth day is wholly incorrect.

16. It is the further submission of the learned Advocate General that G.O. (Ms) No.2723 dated 3.11.1969, the Government had ordered that Thiruvalluvar Day will be observed on the 2nd day of the Tamil Month of Thai following Pongal, which is declared as a public holiday and that Thiruvalluvar Mukthi Day will not be treated as a public holiday. It is the further submission of the learned Advocate General that there is neither misleading or forceful change of the birth day celebrations of Thiruvalluvar and the celebration of birth day of Thiruvalluvar has not been forbidden by the Government in any of the orders. The mere observing of Thiruvalluvar Day on the 2nd day of the Tamil Month of Thai cannot be taken to mean that the birth day of Thiruvalluvar is observed on the said date by changing the same from the original birth day of Thiruvalluvar and the said interpretation of the petitioner is grossly erroneous and it merely a figment of imagination of the petitioner. The act of the Government in declaring



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the 2nd day of the Tamil Month of Thai as Thiruvalluvar is neither unconstitutional nor arbitrary and perverse.

17. It is the further submission of the learned Advocate General that the averment of the petitioner that through a policy, sudden change has been made to the birth day of Thiruvalluvar is thoroughly misconceived, as the Government has not infringed on the rights of the Tamil community by changing the birth day of Thiruvalluvar; rather Thiruvalluvar day is being celebrated on the 2nd day of the Tamil month of Thai and no where there is any mention that the birth day of Thiruvalluvar has been changed. When the Government has not chosen to change the birth day of Thiruvalluvar, the contention of the petitioner that the celebration of Thiruvalluvar day on the 2nd day of the Tamil month of Thai only implies birth day is wholly erroneous.

18. It is the further submission of the learned Advocate General that the 2nd day of the Tamil Month of Thai has been declared as Thiruvalluvar Thirunal to celebrate the great saint and poet and it is not celebrated as the birth day of Thiruvalluvar and that being the case, the representation of the petitioner could



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not be positively considered as none had stopped the petitioner from celebrating Vaikasi Anusham as the birth day of Thiruvalluvar. The averment of the petitioner that the respondents have arbitrarily changed the birth day of Thiruvalluvar to the 2nd day of the Tamil month of Thai is fallacious as there is no mention in the Government order as well that the birth day of Thiruvalluvar is celebrated on the 2nd day of the Tamil month of Thai.

19. It is therefore the contention of the learned Advocate General that when the Government has not changed the birth day of Thiruvalluvar, but are only celebrating Thiruvalluvar Thirunal on the 2nd day of the Tamil Month of Thai, the present petition of the petitioner is not only misconceived and erroneous, but the same does not merit acceptance and it deserves to be dismissed. Accordingly, he prays for dismissal of the present petition.

20. Learned standing counsel appearing for respondents 3 and 4, while adopted the submissions made by the learned Advocate General, further contended that the birth day of Thiruvalluvar having not been disturbed by the issuance of the Government Order, the plea made by the petitioner is wholly



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unsustainable and unacceptable and, therefore, prayed for dismissal of the petition.

21. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing for the petitioner and the learned Advocate General appearing for the respondents 1, 2 and 5 and the learned standing counsel appearing for respondents 3 and 4 and perused the materials available on record.

22. Before embarking upon adjudicating the issue, Thirukkural, the epitome of eternal bliss to each human being, speaks about the manner in which one could attain greatness and the same is spelt out in Kural No.21 in Arathupal by the Great Saint Thiruvalluvar. In the words of the great poet, *“A person, who has divested himself of the worldly pleasures and conducts himself in the proper form by relieving himself of all the desires is the one, whose greatness is spoken by one and all and is also spoken through the texts”* and the same is quoted hereunder for ready reference :-



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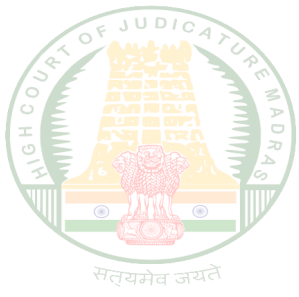
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Freehand English Explanation :

The end and aim of all treatise is to extol beyond all other excellence the greatness of those who while abiding in the rule of conduct peculiar to their state have abandoned all desire.

23. The great saint Thiruvalluvar, an omnipresent being, one who led a life as codified through his well acclaimed couplets, numbering 1330 in all, comprised in the compilation “Thirukkural”, guides the human folks the way in which one should lead their lives and the great work Thirukkural also stands testimony of the great culture of Tamils and also the greatness of Tamil language, which also needs no additional words to be spoken of its rich linguistic



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and cultural value. Humanity has been endowed with the said couplets to be practiced by each one, which is a bliss to attain enlightenment.

24. Thirukkural stands as a testament to the poetic greatness of Thiruvalluvar, as the couplets clearly portray the manner in which a person should lead his life. The greatness of Thiruvalluvar really deserves celebration and earmarking a day for celebrating the greatness of Saint Thiruvalluvar is gracefully accepted by either side.

25. However, the whole case of the petitioner revolves around the order of the Government in and by which the 2nd day of the Tamil month of Thai has been directed to be observed as Thiruvalluvar day, though the birth day of Thiruvalluvar falls on the Anusham star in the Tamil month of Vaikasi.

26. Throughout the petitioner, there is not even a single averment or any material evidencing the birth day of Thiruvalluvar. The only glimpse with regard to the birth day, even according to the petitioner, is premised on the formation of Thiruvalluvar Thirunal Kazhagam, which was formed in the year 1935, which



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celebrated the birth day of Thiruvalluvar on Anusham star in the Tamil month of Vaikasi and further, the said occasion was graced by MaraimalaiAdigal, the great Tamil scholar.

27. This Court, in order to satisfy its curiosity, took upon itself to find out the details with regard to Thiruvalluvar and the details of the birth of the great poet. An extended glance at the materials, which were listed with regard to the search made for Thiruvalluvar revealed only a likely background as inferred from his literary works by different biographers. There are unauthentic hagiographic and legendary accounts of Valluvar's life, but there are no authentic materials which reveal the birth date of the great poet. Little is known with certainty about his family background, religious affiliation, or birthplace. He is believed to have lived at least in the town of Mylapore (a neighbourhood of the present-day Chennai), and his flouritis dated variously from fourth century BCE to early fifth century CE, based on the traditional accounts and the linguistic analyses of his writings. Further, the historian Kamil Zvelebil infers the *Tirukku?a?* and Valluvar to be best dated to around 500 CE. Further, there is negligible authentic information available about Valluvar's life.



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28. From the aforesaid materials, it is evident that there is no clinching material to show the exact birth day of Thiruvalluvar. In the absence of any concrete proof evidencing the birth day of Thiruvalluvar, this Court, sitting under Article 226 of the Constitution cannot give any affirmative direction to the respondents to fix the birth day of Thiruvalluvar as falling on the Anusham Star in the Tamil Month of Vaikasi.

29. Be that as it may. The whole case of the petitioner is premised on the fact that though the petitioner, who is an ardent admirer of Tamil language and has done his Doctorate in Thirukural, more specifically, Arathupal, and on his linguistic and cultural attachment, as has been put up to him by his ancestors, has been following and celebrating the birth day of Thiruvalluvar on Anusham star in the Tamil month of Vaikasi, however, it is to be pointed out that the 2nd day of the Tamil month of thai, which has been earmarked as Thiruvalluvar day by the respondents, nowhere spells out that it is the birth day of the great saint Thiruvalluvar.



WEB COPY 30. Only to celebrate the greatness of Thirukkural, which is a cherished testament by all, irrespective of caste, creed or religion, the respondents have earmarked the 2nd day of the Tamil month of Thai to be celebrated as a mark of respect for the great saint and Tamil poet. There is no mention in the Government Order that it is the birth day of Thiruvalluvar and only to celebrate the same, the 2nd day of the Tamil month of Thai is earmarked.

312. Further, it is to be pointed out that the celebration of Thiruvalluvar's day on the 2nd day of the Tamil month of Thai, not being the birth day of the great saint, irrespective of the said fact, there is no embargo on the petitioner and his followers to celebrate the birth day of Thiruvalluvar on Anusham star in the Tamil month of Vaikasi, if according to them, the same is being followed for over 600 years. There is no testament evidencing that for over 600 years, Anusham star in the Tamil month of Vaikasi is being celebrated as the birth day of Thiruvalluvar. In the absence of any specific material evidencing the birth day of Thiruvalluvar, trying to impose upon the respondents to celebrate Anusham star in the Tamil month of Thai as the birth day of Thiruvalluvar cannot be



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acceded to and this Court cannot issue any affirmative direction as sought for by the petitioner.

323. Though there have been Tamil scholars, who have celebrated Anusham star in the Tamil month of Vaikasi as the birth day of Thiruvalluvar, however, in the absence of any proof with regard to the birth day of Thiruvalluvar, this Court cannot issue any writ of declaration to the respondents to declare that Anusham star in the Tamil month of Vaikasi ought to be celebrated as the birth day of Thiruvalluvar. No such direction can be issued to the respondents by this Court sitting under Article 226 of the Constitution as there is no concrete proof to hold that Anusham star in the Tamil month of Vaikasi is the birth day of Thiruvalluvar.

33. As a welfare state, to promote linguistic harmony, it is open for the respondents to celebrate a particular day as a mark of respect and adoration to Thiruvalluvar, but in the absence of any material which proves that to be the birth day, the respondents cannot be directed to declare Anusham star in the Tamil month of Vaikasi as the birth day of Thiruvalluvar and to declare holiday



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on the said date in lieu of Thiruvalluvar day, which is celebrated on the 2nd day of the Tamil month of Thai.

34. Even the materials placed by the petitioner only goes as far back as 1935, which is about a period of 90 years. Beyond that, except for the temple for Thiruvalluvar, which is said to be built and is in existence for about 600 years, for which as well there is no material to show the exact birth day of Thiruvalluvar. Even during the British rule and before, cherishing the literature in Thirukkural, which is said to have been written by Thiruvalluvar, the custom of celebration of the birth day of Thiruvalluvar on Anusham star in the Tamil month of Vaikasi has been in vogue. There is no provable material, which clearly establishes the exact birth day or the date of Thiruvalluvar and such being the case, if the respondents want to celebrate the greatness of Thiruvalluvar and his masterpiece Thirukkural for which they have earmarked a day for celebration, which is not fixed as the birth day of Thiruvalluvar, this Court cannot sit over the said decision of the respondents in the absence of any authentic materials. Therefore, the contentions put forth by the petitioner, not being substantiated by any



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materials, which prove their case, this Court would not be justified in granting the relief prayed for under Article 226 of the Constitution of India.

35. For the reasons aforesaid, no case has been made out by the petitioner for quashing the impugned Government Order and giving any affirmative direction to the respondent with regard to the celebration of the birth day of Thiruvalluvar to be on Anusham star in the Tamil month of Vaikasi and, therefore, this writ petition does not merit acceptance and the same deserves to be dismissed.

36. Accordingly, this writ petition fails and the same is dismissed. Consequently, connected miscellaneous petition is also dismissed. There shall be no order as to costs in this petition.

18.09.2024

Index : Yes / No

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To

1. The Chief Secretary
Government of Tamil Nadu
Secretariat, Fort St. George
Chennai 600 009.
2. The Secretary to Government
Tamil Development & Information Dept.
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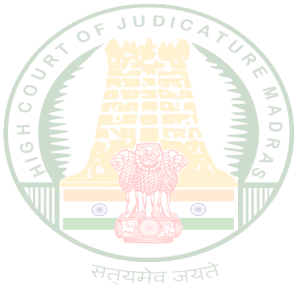
W.P. No.10392/2021

M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO.10392OF 2021**

Pronounced on



W.P. No.10392/2021

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18.09.2024