

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF AUGUST, 2022

PRESENT

THE HON'BLE MR. ALOK ARADHE, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE S.VISHWAJITH SHETTY

WRIT PETITION NO. 10473 OF 2022 (GM-RES-PIL)

BETWEEN:

SRI CHANDRASHEKAR R

... PETITIONER

(BY SRI MANJUNATH S HALAWAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY ITS CHIEF SECRETARY
VIDHANA SOUDHA
AMBEDKAR VEEDHI
BANGALORE-560 001
2. THE ADDL. CHIEF SECRETARY
HOME DEPARTMENT
GOVERNMENT OF KARNATAKA
VIDHAN SOUDHA
AMBEDKAR VEEDHI
BANGALORE-560 001
3. THE DIRECTOR GENERAL AND I.G.P
KARNATAKA
NRUPATHUNGA ROAD
NUNEGUNDLAPALLI
AMBEDKAR VEEDHI
BANGALORE-560 001

4. THE COMMISSIONER OF POLICE
INFANTRY ROAD
VASANTH NAGAR
BANGALORE-560 001

... RESPONDENTS

(BY SRI S.S.MAHENDRA, ADDITIONAL GOVERNMENT
ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER WRIT OR ORDER, DIRECTING THE RESPONDENT NO.1 TO 4 TO STOP THE MOSQUES OR MASJIDS IN THE STATE OF KARNATAKA FOR USING THE OBJECTIONABLE WORDS THROUGH LOUDSPEAKERS WHILE CALLING AZAN OR ADHAN PRAYER 5 TIMES IN A DAY THROUGHOUT THE 365 DAYS IN A YEAR AND ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY **ACTING CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

Mr.Manjunath S.Halawar, learned counsel for the petitioner.

Mr.S.S.Mahendra, learned Additional Government Advocate for the respondents.

The petitioner, who claims to be a resident of Bengaluru, has filed this petition seeking the following reliefs:

- “(i) *Issue a Writ in the nature of Mandamus or any other Writ or Order, Directing the Respondent No.1 to 4 to stop the*

mosques or masjids in the State of Karnataka for using the objectionable words through loudspeakers while calling Azan or Adhan prayer 5 times in a day throughout the 365 days in a year.

- (ii) *Issue a Writ in the nature of Mandamus or any other writ directing to take step in order to seizure and confiscation of loudspeakers, amplifiers and such other equipment's installed in mosques/ masjids for using the objectionable words while calling Azan or Adhan prayer in the State of Karnataka."*

2. The facts leading to filing of this petition, briefly stated are that *Azan* or *Adhan* prayers are being offered through loudspeakers and public address systems five times a day between 6.00 a.m to 10.00 p.m throughout the year from the mosques or *masjids* in the State of Karnataka.

3. The grievance of the petitioner as averred in the writ petition is that calling of *Azan* or *Adhan*, though is an essential religious practice of muslims, however, the contents of the *Azan* or *Adhan* are hurting the believers of other religious faiths.

4. Learned counsel for the petitioner submitted that the contents of the *Azan* or *Adhan* hurts the sentiments of believers of other faiths and, therefore, a writ of mandamus be issued to respondent Nos.1 to 4 to stop the mosques/*masjids* in the State of Karnataka from using the contents through the loudspeakers or public address systems while calling *Azan* or *Adhan* prayers five times a day.

5. We have considered the submissions made by learned counsel for the petitioner.

6. Articles 25 and 26 of the Constitution of India embodies the principle of religious toleration which is a characteristic of Indian Civilization. Article 25(1) of the Constitution of India confers a fundamental right on all persons to freely profess, practice and propagate their own religion. However, the aforesaid right is not an absolute right, but is subject to restrictions on the grounds of public order, morality

and health, as well as subject to other provisions in Part III of the Constitution of India.

7. Undoubtedly, the petitioner as well as the believers of other faiths have the right to practice their religion. *Azan* or *Adhan* is a call to offer prayers. However, the contention that the contents of *Azan* or *Adhan* violate the fundamental right guaranteed to the petitioner as well as the persons of other faith cannot be accepted. It is also pertinent to note that it is not the case of the petitioner himself that his fundamental right guaranteed under Article 25 of the Constitution of India is being infringed in any manner by calling of *Azan* or *Adhan* through loudspeakers or public address systems.

8. However, before parting with the case, it is worth mentioning that the aforesaid right to practice religion is not an absolute right but, is subject to restrictions on the grounds of public order, morality

and health, as well as other rights guaranteed in Part III of the Constitution.

9. The use of loudspeakers, public address systems and sound producing instruments is governed by the Noise Pollution (Regulation and Control) Rules, 2000 read with Section 37 of the Karnataka Police Act, 1963.

10. Respondent Nos.1 to 4 are, therefore, directed to ensure that the loudspeakers, public address systems, sound producing instruments and other musical instruments shall not be permitted to be used above permissible decibel during night from 10.00 p.m to 6.00 a.m.

11. A Division Bench of this Court, by an order dated 17.06.2022 passed in Writ Petition No.4574/2021 has directed respondent Nos.1 to 4 herein to carry out a drive to prevent the misuse of loudspeakers and public address systems. The respondent Nos.1 to 4 shall follow the directions

issued by this Court by an order dated 17.06.2022 passed in Writ Petition No.4574/2021 and shall file a compliance report before this Court within a period of eight weeks.

With the aforesaid directions, the petition is disposed of.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**

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