

23.08.2024

**WPA 21455 of 2024**

**Dr. Partha Biswas  
Vs.  
The State of West Bengal & Ors.**

Mr. Brajesh Jha  
Ms. Megha Datta  
Mr. Neel Chakraborty

... .. for the petitioner

Mr. Amitesh Banerjee, SSC  
Mr. Rudrajit Sarkar  
Mr. Debangshu Dinda

... .. for the State

Affidavit of service filed in Court be kept with the record.

Learned counsel appearing for the petitioner submits that the petitioner is the Chief Coordinator of Mission Abhaya, which is a philanthropic organization and wants to hold a peaceful solidarity rally on 28<sup>th</sup> August, 2024 at 2.00 P.M. from College Square through Bidahan Sarani and to end rally at OP Bhandar Bus Stop close to Shyambazar Five Points Crossing. Learned counsel further submits that as the Joint Commissioner of Police (HQ), Kolkata has refused to grant permission, the petitioner prays for a direction upon the Joint Commissioner of Police, the respondent no.2 in the instant application, to allow permission to hold rally on 28<sup>th</sup> August, 2024.

Learned counsel appearing for the petitioner refers to judgment dated 10<sup>th</sup> April, 1993 (State of West Bengal & Ors. Vs. Dr. Anindya Gopal Mitra & Ors.) reported in

1993 SCC OnLine Cal 126, order dated 24<sup>th</sup> November, 2023 in MAT 2283 of 2023 with I.A. CAN 1 of 2023 (The State of West Bengal & Ors. Vs. Jagannath Chattopadhyay) of the Division Bench of this Hon'ble Court and order dated 23<sup>rd</sup> August, 2023 in WPA 20535 of 2023 (Raj Chowdhury Vs. State of West Bengal & Ors.) of the co-ordinate Bench of this Hon'ble Court to strengthen his submission that there cannot be any prohibition to rally/demonstration which may be held by a philanthropic organisation.

Mr. Banerjee, learned Senior Standing Counsel appearing for the State submits that he do not have any objection to such rally but the rally should be peaceful and in accordance with law.

Mr. Banerjee relies on Supreme Court judgment dated 23<sup>rd</sup> February, 2012 [Ramlila Maidan Incident, In Re Suo Motu W.P. (Crl.) No. 122 of 2011] reported in (2012) 5 SCC 1, judgment dated 23<sup>rd</sup> July, 2018 (Mazdoor Kisan Shakti Sangathan Vs. Union of India and Anr.) reported in (2018) 17 SCC 324, judgment dated 15<sup>th</sup> September, 1972 (Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and Anr.) reported in (1973) 1 SCC 227 and a judgment dated 7<sup>th</sup> October, 2020 (Amit Sahni Vs. Commissioner of Police and Ors.) reported in (2020) 10 SCC 439 and submits that the State has adequate power to restrict and regulate rallies, dharnas, demonstrations etc.

Heard learned counsels for the parties at length.

This Court has taken judicial notice of the fact that there are several instances regarding processions, rallies, meetings etc. which are held in regular intervals in the State of West Bengal and more particularly in Kolkata. Demonstration/Dharna had also taken place on week days by different organizations.

It was held by a co-ordinate Bench of this Court as well as in the State of West Bengal and Ors. Vs. Jagannath Chattopadhyay in MAT No. 2283 of 2023 with I.A. CAN 1 of 2023 that there should be level playing field for all political parties for holding public rallies, gatherings, meetings and the law and order has to be looked into by the State. It was further held in a judgment of our co-ordinate Bench reported in **2017 SCC OnLine Cal 1914 (Sasanka Sekhar Dey & Ors. Vs. State of West Bengal & Ors.)** that:-

*“11.....If the assemblage of invitees to the function is not for an unlawful, purpose (which is not the case of the respondents), then such assemblage at a public place ought not to be restrained until and unless there is an imminent threat to the breach of public order. Even then, the restraint must be just and reasonable balancing the interest of the individual with that of public safety. It must not only be reasonable but also least invasive and minimal. In Ramlila Maidan Incident, In Re: (2012) 5 SCC 1, the Court held:-*

*“58 ..... the requirements of existence of sufficient ground and need for immediate prevention or*

*speedy remedy is of prime significance. In this context, the perception of the officer recording the desired/contemplated satisfaction has to be reasonable, least invasive and bona fide. The restraint has to be reasonable and further must be minimal. Such restraint should not be allowed to exceed the constraints of the particular situation either in nature or in duration. The most onerous duty that is cast upon the empowered officer by the legislature is that the perception of threat to public peace and tranquillity should be real and not quandary, imaginary or a mere likely possibility."*

In view of the above and in the interest of justice, this Court passes the following directions:

- i) Let the petitioner and his associates hold the rally with not more than 200 number of persons on 28<sup>th</sup> August, 2024 in between 2:00 P.M. to 4:00 P.M. The organization should follow the route from College Square through Bidahan Sarani till OP Bhandar Bus Stop close to Shyambazar Five Points Crossing.
- ii) The petitioner shall abide by all the conditions for holding such rallies. The rally shall not cause any undue obstruction to public at large.
- iii) The police authorities shall make necessary arrangements for security with good number of personnel so as to ensure that no breach of peace takes place and the rally can move peacefully.

- iv) The police arrangements would be made under the supervision of Joint Commissioner of Police (HQ), Lal Bazar, Kolkata.

With the above directions, the writ petition being WPA 21455 of 2024 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

**(Rajarshi Bharadwaj, J.)**