

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No.857 of 2017**

- Shivsena Chhattisgarh Through The Secretary Sunil Kumar Jha, S/o Shri S. K. Jha, Aged About 57 Years, R/o Krishna Vihar, Koni Road, Bilaspur, District Bilaspur (Chhattisgarh)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through : Secretary, Home Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
2. The Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, New Raipur, District Raipur (Chhattisgarh)
3. The Director General Of Police, Raipur, District Raipur, Chhattisgarh
4. The Inspector General Of Police, Raipur, District Raipur, Chhattisgarh
5. The Superintendent Of Police, Raipur, District Raipur, Chhattisgarh
6. The District Magistrate/ Collector, Raipur, District Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Shri S. C. Verma, Advocate
For Respondent/State	:	Shri Ramakant Mishra, Dy.AG

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****06/04/2017**

Heard.

2. This petition has been filed by the petitioner aggrieved by order dated 26-03-2017, by which, petitioner's application for taking out the religious procession through a particular route has been rejected in its present form in view of the restraint order dated 10-02-2017 No.60 passed by the District Magistrate and the petitioner has been asked to suggest any other alternative route.

3. Learned counsel for petitioner submits that the rejection of petitioner's

request to allow it to hold religious procession through the proposed route amounts to unreasonable restriction on its fundamental right to carry out peaceful procession including the religious procession. It is submitted that the restriction is unreasonable as well as discriminatory, because no specific reason has been assigned as to why such a stringent action has been taken to altogether restrict a procession and secondly other associations have been allowed to carry out their procession through the same route and thus by impugned order, as alleged, petitioner has been singled out for hostile discrimination only on sheer political considerations.

4. On the other hand, learned State counsel submits that the District Magistrate has passed an order No.60 on 10-02-2017 (Annexure R/4) imposing restriction on taking out any procession from 9 A.M. To 9 P.M. on specified routes taking into consideration various recommendations, reports and satisfaction with regard to serious obstruction to public convenience, traffic congestion on specified streets of the city. He submits that after this order, no party or association has been allowed to take its procession on the prohibited specified routes between the time stipulated in order dated 10-02-2017. He submits that the order dated 10-02-2017 is not under challenge in this petition.

However, learned State counsel submits that if the petitioner moves an application for an alternative route, which is not prohibited, then the same would be considered. He also makes it clear that this restriction is only with reference to the route and the time stipulated in order dated 10-02-2017. If the petitioner chooses to carry out its procession after 9 P.M. or before 9 A.M., restriction order dated 10-02-2017 would not be applicable against the petitioner.

5. Having considered the submission of learned counsel for the parties, in the absence of there being challenge to the order No.60, dated 10-02-2017 (Annexure R/4), the petitioner's challenge to imposition order must fail. The order has been

passed pursuant to restriction order passed by the District Magistrate on 10-02-2017 (Annexure R/4). Order No.59, dated 10-02-2017, filed by the petitioner as Annexure P/2) challenged in this petition is not the source of order Annexure P/1. It is order No.60, dated 10-02-2017 (Annexure R/4), on the basis of which, the impugned order has been passed.

6. Another submission was made by learned counsel for the petitioner that the administration should consider whether this restriction, as provided under order dated 10-02-2017 (Order No.60, Annexure R/4), should be relaxed in those cases, where permission is sought to take procession on holidays, when the pressure of traffic is not as much as on other working days. This aspect may be brought to the notice of the District Magistrate by the petitioner by way of representation to impress upon the authority to consider the situation. Presently, it appears that the petitioner is intending to take out its procession on 08-04-2017. Therefore, in these circumstances, the petitioner can submit representation to the District Magistrate on this aspect that the procession is to be carried out on holiday and not a working day and that too after 2 P.M. After such representation is made before the District Magistrate, it would be open for the District Magistrate to consider taking into consideration all the relevant circumstances whether the petitioner, in these circumstances, should be allowed to take out their procession.

7. Accordingly, this petition is finally disposed off at this stage, reserving liberty to the petitioner to challenge the legality and validity of order of restriction dated 10-02-2017 (No.60, filed as Annexure R/4).

8. Certified copy be supplied by tomorrow.

SD/-
(Manindra Mohan Shrivastava)
Judge