

AD. 15.
January 21, 2021.
MNS.

W. P. A. 1809 of 2021
(**Via video conference**)

Hindusthan Club Limited and another
Vs.
The State of West Bengal and others

Mr. Arunava Ghosh,
Mr. Soumya Majumder,
Mr. D. Sengupta,
Mr. A. Lahiri,
Mr. Puspall Chakraborty

... for the petitioners.

Mr. Amitesh Banerjee,
Mr. Tarak Karan

...for the respondent-authorities.

Affidavit-of-service filed in court today be
taken on record.

The petitioners have approached this
Court with the grievance that several employees
of the petitioner no. 1 club have been holding
demonstration in the space in-between the gates
of the club and obstructing ingress and egress to
the premises of the club.

Learned senior counsel appearing for the
petitioners submits that the said agitators may
resort to violence at any point of time. Posters
are being stuck on the gates of the club and

nuisance is being created in front of the club, which may ultimately result in the closure of the club, which will prejudice not only the members of the club but also several employees thereof.

Learned senior counsel places reliance, in particular, on Sections 13 and 23 of the Police Act, 1861, which provide respectively for deployment of additional police officers at the cost of individuals in the event necessity so arises and provides for the duties of every police officer to obey and execute all orders and warrants lawfully issued to him by any competent authority, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons whom he is legally authorised to apprehend, etc.

Learned senior counsel for the petitioners also places reliance on Regulations 13 and 14 of the Police Regulations in support of his contention that the law provides for deployment of additional police constables and officers for protection of private parties as well, apart from temporary police guards.

Learned counsel appearing for the respondent-authorities submits that it is not possible for the police to provide assistance to

private parties in each and every case of grievance, particularly in view of the prevailing pandemic situation. A doubt is raised as to applicability of the cited Regulations to Kolkata police.

A perusal of the cited sections indicate that there is ample power vested in the appropriate authorities to provide police assistance for specific protection of private persons as well.

Section 13 of the 1861 Act indicates, however, that the deputation of additional police officers by the Inspector General of Police, Deputy Inspector General, Assistant Inspector General or District Superintendent is subject to the general direction of the Magistrate of the district on the application of any person showing the necessity thereof.

Section 23 confers general obligations on police officers to protect citizens from violation of law, to prevent commission of offence and public nuisance, to detect and bring offenders to justice and to apprehend all such persons and the like.

Regulations 13 and 14 of the Police Regulations, Calcutta, 1968, cited by the petitioners indicate that temporary police guards may be appointed by the Commissioner on

receipt of applications from Government departments as well as private parties.

Regulation 14 also contains similar provisions. However, clause (iii) of Regulation 14 indicates that the cost of additional police force shall be charged to a private person in non-contentious cases only, when a person acting within his rights finds himself in a position where the ordinary protection of the police is not sufficient. The examples given in the said clause pertain to keeping order among people assembled at a 'mela' (fair) or to guard money or other valuables which a person has to carry from one place to another, for purposes of safety.

Clause (i) of Regulation 14, on the other hand, stipulates that additional police force shall not be deputed unless the necessity for it has been established, or when the desired result can be obtained by the institution of proceedings under the preventive sections of the law.

Although the petitioners have sought to make out a case of grave apprehension of violation of law by the protesting employees, as well as obstruction in ingress and egress to the property, it does not appear that any particular instance, as contemplated in Police Regulation

14, or necessity, as per Section 13 of the 1861 Act, has been cited at the present instance.

Undoubtedly, if occasion so arises, the petitioners are always at liberty to approach the Commissioner of Police in that regard.

That apart, learned counsel for the police authorities submits that no obstruction of ingress and egress to the club premises has been found by the police on enquiry.

Be that as it may, it is the incumbent duty of the Commissioner of Police, upon being approached by a citizen for private protection, to consider such representation and, in the event sufficient necessity has been made out, to accord individual police protection by deployment of adequate additional police force at the cost of the complainant.

As such, W. P. A. 1809 of 2021 is disposed of by directing the respondent no. 2 to consider and decide the petitioners' representation dated January 12, 2021, annexed at page- 119 of the writ petition, at the earliest, preferably within a week from date, in accordance with law.

In the event the Commissioner deems it necessary to deploy additional police

officers/personnel in the circumstances of the case, he will do so at the cost of the petitioners.

There will be no order as to costs.

The parties are directed to act on the communication of advocates and/or server copies of this order, without insisting upon prior production of certified copy thereof.

(Sabyasachi Bhattacharyya, J.)