

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4752 of 2021

- Divine Revolution, Through President - Albert Smith, Aged About 34 Year, S/o Chitranjan Nag R/o - Q.No. 14 / F, K.L.C. Khursipar, Bhilai, District - Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through - Secretary, General Administration Department, Mahanadi Bhawan, Mantralaya, New Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Collector, Durg, District - Durg Chhattisgarh
3. Sub-Divisional Officer Bhilai Nagar, District - Durg Chhattisgarh

----Respondents

For Petitioner – Smt. Fouzia Mirza Senior Advocate with Shri Navin Shukla, Advocate.

For State/Respondents – Shri Chandresh Shrivastava, Deputy Advocate General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

30-11-2021

1. The present petition has been brought against the impugned order dated 30-10-2021 issued by the respondent cancelling the permission granted for use of sound amplifier and taking out rally scheduled on 01-12-2021 on Aids Awareness Day.

2. It is submitted by learned counsel for the petitioner that the petitioner is an association registered as per requirement of law. The petitioner association has been conducting Christmas welcome rally every year since last 10 years. The permission was sought and granted to the petitioner by Annexure-P/2 as per the terms and conditions mentioned in the order by respondent No.3.

It is submitted that on 30-10-2021 the respondent No.3 issued impugned order Annexure-P/1 mentioning that the permission granted earlier is cancelled for the reason that there is increase in corona virus infection. It is submitted that the impugned order is unreasonable and arbitrary. There is marked decline in the corona virus cases in the country and in the State. Reference has been made to the John Hopkins Institute Survey data. The order annexure-P/1 is

therefore, discriminatory. Whereas the procession and rallies have been carried out in recent times, regarding which the respondent authorities had no objection. It is submitted that by the impugned order the right of the petitioner under Article 15 and 25 of the Constitution of India has been violated. Therefore, the impugned order is unsustainable which may be quashed and relief be granted to the petitioner.

3. Learned State counsel representing all the respondents opposes the submission and submits that the order of rejection has been passed only on the basis of the covid protocol which is continuing. The Standard Operation Procedure which is annexed as Annexure-P/4 provides for the restrictions advised by the administration to be followed for the control of corona virus infection. Therefore, the order passed is bonafide and in the interest of public at large.

4. In reply, it is submitted that the respondent has exercised power in discriminatory manner, as there are various examples present in which the permission was granted for taking out rallies and also for the marriage ceremonies. Therefore, the petition be allowed. Reliance has been placed on the judgment of Hon'ble the Supreme Court in the matter of **Bijoe Emmanuel and others Vs. State of Kerala and others**, (1986) 3 SCC 615.

5. Heard learned counsel for the parties and perused the documents.

6. Considered on the submissions. On perusal of Annexure-P/4, the Standard Operating Procedure, the State authorities grant permission for social, academic, games, entertainment, cultural rallies and political rallies with strict direction to follow the instructions as provided in the SOP. The petitioner was earlier granted permission on same terms and conditions vide Annexure-P/2. As there is no lockdown imposed at present and neither the area in which the petitioner intends to take out the rally is a containment zone and in recent times the State authorities have made various relaxations so as to bring the things to normalcy. There is no mention in the impugned order regarding any

recent outburst of of the corona infection. In the case of Bijoe Emmanuel and others Vs. State of Kerala and others (supra) it was observed that :-

“Article 25 is an article of faith in the Constitution, incorporated in recognition of the principle that the real test of a true democracy is the ability of even an insignificant minority to find its identity under the country’s Constitution. This has to be borne in mind in interpreting Article 25.”

7. In view of the this observation of the right guaranteed under Article 25 of the Constitution, the impugned order appears to be arbitrary. The State authorities have their concerns in the matter of implementation of corona protocol and the same is mentioned in the terms which have been imposed upon the petitioner vide annexure-P/2. Therefore, not finding any impending circumstance because of which the permission granted to the petitioner should have been withdrawn, the impugned order is found to be unsustainable. Hence, this petition is allowed at motion stage. The impugned order is quashed and the order dated 26-10-2021 vide Annexure-P/2 is restored. With these observations the petition is disposed off.

8. Certified copy today.

Sd/-
(Rajendra Chandra Singh Samant)
Judge