

19.04.2022
sayandeep
Sl. No. 21
Ct. No. 09

WPA 6932 of 2022

Sk. Imran & Ors.
-Versus-
The State of West Bengal & Ors.

Mr. Soumen Kr. Dutta
Mr. Sabyasachi Bhattacharjee
Mr. Arpita Kundu
..... for the petitioners

Mr. Raja Saha
Mr. Rajat Dutta
..... for the State

Mr. Kaushik Chatterjee
Mr. Nilanjan Adhikari
Ms. Rita Patra
..... for the respondent No. 3

Mr. Supratic Roy
Mr. Ritam Chowdhury
..... for the respondent No. 3

Learned counsel for the petitioners contends that despite the Principal of the Probhat Kumar College, Contai having previously given permission to the Student's Unit, represented by the petitioners, to hold the Baishakhi Mela on the College ground, when the petitioners sought similar permission from the Chairman, Contai Municipality (respondent No. 3), the Chairman, in order to delay the application of the

Student's Unit, relegated the matter back to the Principal for seeking further permission.

It is evident from Annexure P5 at page-26 of the writ petition that the Principal of the said College made it clear that such permission has already been given to the Student's Unit for holding Baishakhi Mela during April 20, 2022 – June 3, 2022 on the basis of the said Student Unit's two applications dated April 1, 2022 and April 8, 2022 respectively.

However, the two sets of learned counsel who appear on behalf of the respondent No. 3, submit that for a partially-coinciding period, that is, from May 9, 2022 to June 30, 2022, the College ground itself was sought for holding Rabindra Jayanti and Baishakhi Mela, which had been refused by the Principal of the College. It is submitted that the College is also partially controlled by the State Government and, as such, such permission cannot be given to the Student's Unit if the same was refused for the State authorities.

It is further submitted that, for long, in previous years, some other organisation had been conducting, the said fair, that is, the 'Baishakhi Mela' but now the Student's Unit of the college has come up seeking permission to do so for some unknown reason.

Learned counsel for the State contends that the petitioners have to take permission not only from the Chairman, Contai Municipality but also from other authorities for the purpose of holding the fair. Apart from the said bar, there is no objection of the State, since, the State could not consider granting such permission till now due to the absence of such pre-requisite permissions.

Upon hearing learned counsel for the parties, it is evident that the Principal of the concerned College had already granted permission previously to the Student's Unit for holding the Baishakhi Mela during April 20, 2022 to June 3, 2022, on the basis of the applications of the Student's Unit, on the College ground itself. Apart from other formalities, the Principal was well within his authority and discretion to grant permission to the Student's Unit or to any other body to hold such fair on the College ground.

The grounds of objection taken by the Chairman are absolutely ridiculous, since mere change of the organisation which is going to hold a particular fair and/or the fact that the Chairman's whims were controverted by the Principal of the College by refusing to grant permission for holding a different fair from May 9, 2022 to June 30, 2022 are utterly insufficient for interference by the Court under Article 226 of the

Constitution, more so, since the permission has been accorded to a body of the students themselves. As such, the Chairman acted wholly *de hors* his authority and jurisdiction to sit tight over the application for permission of the petitioners to hold such Mela on the College ground, thereby virtually attempting to render the same infructuous.

In fact, it appears that the latent motivator behind such refusal is the grudge borne by the Chairman of the Municipality because of the previous refusal for permission to hold a different Mela (fair) for the same period on the College ground. Thus, the Chairman's inaction is telling proof of his mala fides. Hence, the writ petition succeeds.

WPA 6932 of 2022 is allowed, thereby directing the respondent No. 3 to grant permission to the petitioners to hold such Baishakhi Mela on the grounds of the Probhat Kumar College, Contai, for the period as asked for by the petitioner, during the course of the day, preferably within 3 P.M. today.

The petitioners are free to approach the other concerned authorities, whose permission is, if at all, required for holding the Baishakhi Mela on the College grounds during the course of the day. It is expected that the other authorities will not toe the line of the Municipality and refuse such permission to the

petitioners on unwarranted and illegal grounds but shall decide on the said application(s) for such necessary permissions expeditiously, for the purpose of enabling the petitioners to hold the Baishakhi Mela from the scheduled date of commencement.

Parties and all concerned shall act on the written communication of the learned advocate for the petitioners, coupled with a server copy of this order, without insisting upon prior production of a certified copy thereof, for the purpose of implementation of the same.

(Sabyasachi Bhattacharyya, J.)