

20.09.2022
Ct. 5
D/L 15
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WPA 19634 of 2022

Dateline Communications Private Limited

-Vs-

Union of India & Ors.

Mr. Kushal Chatterjee,
Mr. Itekar Munshi,
Mr. Sounak Mukherjee,
Mr. Debrup Choudhury

... for the petitioner

Mr. Debasish Ghosh,
Ms. Piyali Sengupta,
Mr. Domingo Gomes

... for the State

Mr. Ashok Halder

... for the respondent no. 1

Mr. L. K. Gupta,
Mr. Arjun Roy Mukherjee,
Ms. Saheli Mukherjee,

... for the Durgapur Steel Plant

The petitioner seeks to organize “Sarbojanin Durga Puja” for the year 2022 in the vacant ground inside Tagore Park in Durgapur Township. The petitioner claims that the petitioner has been permitted to organize Durga Puja in and around the said area for the last 15 years.

The respondent Durgapur Steel Plant (DSP) objects to the prayer and submits that Tagore Park consists of a Guest House for senior officials of the DSP and that there is a real apprehension of the petitioner

causing nuisance if the petitioner is allowed to organize Puja within Tagore Park area.

This matter was taken up on at least three occasions when the parties made offers and counter-offers of alternative sites for holding the Puja. These were mostly of the petitioner asking for a space inside Tagore Park and the respondent DSP offering a place outside Tagore park.

The admitted fact is that the petitioner occupies two rooms as a tenant in the Guest House located inside Tagore Park. The petitioner is said to have initially celebrating Durga Puja from the two rooms which later spread to an adjoining area within Tagore Park. The respondent DSP objects to holding the Durga Puja for this year on the ground that the petitioner has a history of causing disturbance with high-decibel celebrations disturbing the senior officials of the Guest House of the DSP.

It appears from the plea of the petitioner that the petitioner intends to hold Durga Puja only within the Tagore Park Complex. The plea is based on convenience as the petitioner is unwilling to hold the Puja anywhere outside as that would cause inconvenience to the petitioner.

This Court is unable to understand the reluctance, even the stubbornness of the petitioner of celebrating the Puja at any place outside Tagore Park

particularly when the respondent DSP has intimated that it has no objection to the alternative sites outside the complex. The stand of the respondent DSP is particularly credible since the respondent has purchased the entire land, where Tagore House is located, from the State upon the latter acquiring the same sometime in the 1950s.

Moreover, the petitioner has not been able to establish any legal right for holding the Puja within the premises of Tagore Park. The fact that the petitioner was permitted to hold the Puja from Tagore Park, albeit within two rooms or adjoining the same for the last 15 years, cannot translate to a right which the petitioner can enforce before a writ Court. This may at best give rise to a legitimate expectation but not a legal right.

This Court draws strength from a Constitution Bench decision of the Supreme Court in *AIR 1962 SC 1210 (Dr. Rai Shivendra Bahadur Vs. Governing Body of the Nalanda College, Bihar Sharif)* where the Supreme Court opined that for a mandamus to be issued for compelling the respondents to do something, the petitioner must show that the statute impose a legal duty on the respondents and that the petitioner has a legal right under the statute to enforce its performance.

The petitioner, in the present case, has not been able to establish any such legal right to organize Durga

Puja on the land belonging to the respondent and that too only in a designated area of the land.

The point taken by learned counsel appearing for the petitioner that the respondent DSP cannot close a public park/space for general use, is fallacious for two reasons. First, the petitioner cannot claim to represent the public at large and second, holding of a Durga Puja is not equivalent to a person/citizen's right to clear and fresh air under the right to livelihood guaranteed by the Constitution.

The writ petition being WPA 19634 of 2022 must fail for the above reasons and is dismissed accordingly.

(Moushumi Bhattacharya, J.)