

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

WPA(P) 473 of 2022

Reserved on: 19.09.2022

Pronounced on: 23.09.2022

Rama Prasad Sarkar

...Petitioner

-Vs-

The Union of India and Others

...Respondents

Present:-

Mr. Rama Prasad Sarkar

... petitioner (in person)

Mr. Ashoke Kumar Chakrabarti, Id. Additional Solicitor General

Mr. Billwadal Bhattacharyya,

Mr. Ayanabha Raha, Advocates

... for the Union of India

Mr. S.N. Mookherjee, Id. Advocate General

Mr. A. Ray,

Md. T.M. Siddiqui,

Mr. D. Ghosh,

Mr. Y. Singhi, Advocates

... for the State

Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE

THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE

Prakash Shrivastava, CJ:

1. The petitioner, a practicing Advocate of this Court, has filed the present petition against the march organized by respondent No. 5 Bharatiya Janata Party towards State secretariat 'Nabanna' to manifest protest against the alleged failure of the Government of West Bengal in controlling corruption. It is alleged in the petition that the participants in the rally were mobilized from the neighbouring areas and bordering

States and that State secretariat building Nabanna is a high security zone and the protest had disrupted the business due to closure of Mangla Hat. It has been vaguely alleged in the petition that during the procession loss was caused to the vehicles, shops etc. Further allegation is that the respondent No. 5 political party in the year 2020 had also organized similar protest where clashes had taken place between the supporters of respondent No. 5 and the police authorities and the police had to resort to lathi charge to maintain law and order. Further allegation is that the respondent No. 5 is the ruling party in the Centre, therefore, the respondent No. 1 Union of India is responsible for the conduct.

2. On the basis of the above averments, petitioner has made a prayer to direct the investigation by an independent agency and constitute a Committee to assess the damage and call for a report relating to eruption of alleged violence.

3. A preliminary objection has been raised by learned ASG that the petitioner is connected with the ruling party in the State, therefore, he cannot be permitted to raise political issue and earlier petitions filed by the petitioner have been rejected on this ground and the petition lacks in sufficient particulars and even today a number of petitions having political colour filed, at the instance of the petitioner, are in the list of this Court.

4. The petitioner has submitted that permission to hold the rally was denied and in spite of that the respondent No. 5 had held the rally. In support of his submission he has referred to the orders of the Commissioner of Police, Headquarters dated 10.09.2022 and even dated order of the Deputy Commissioner of Police, Headquarters, Howrah. He has also placed reliance upon paragraph 56 of the judgment of the

Hon'ble Supreme Court in the matter of **S. P. Gupta vs. Union of India and Another** reported in **AIR 1982 SC 149**.

5. Learned Advocate General has also submitted that similar issue is involved in WPA(P) 470 of 2022 (item no. 33) wherein a report has been called.

6. We have heard learned Counsel for the parties on the preliminary objection about maintainability of the petition and perused the record.

7. The Division Bench of this Court by order dated 11th of February, 2021 passed in WPA(P) 53 of 2021 in the matter of Ramaprasad Sarkar vs. Union of India and others which was a petition filed by the present petitioner had noted that the petitioner is a member of Calcutta High Court Trinamul Law Cell, the political party in power in the State of West Bengal, therefore, raising of a political issue directly connected with a political party in power against other political party was not found to be a larger public interest but a private interest litigation. The Division Bench of this Court in the order dated 11th of February, 2021 while dismissing the WPA (P) 53 of 2021 at the instance of the present petitioner had held that:

“15. On perusal of the aforesaid facts it is clearly established that the present writ petition has been filed by none else than a practicing advocate in this court, who is a member of the Calcutta High Court Tribunal Law Cell, the political party in power at present in the State of West Bengal.

16. Filing of a writ petition by an advocate, who is directly connected with a political party in power raising issues against other political party during election time cannot be said to be in larger public interest. It can be said to be a private interest litigation.”

8. In WPA(P) 308 of 2022 in the matter of Rama Prasad Sarkar vs. Union of India and Ors., the petitioner had again raised a political issue, hence the said petition was again dismissed by order dated 10th of August, 2022 by taking note of the earlier judgment in WPA(P) 53 of 2021.

9. Hence, the present petition, involving a political issue, in substance making allegation against the ruling party in the Centre cannot be maintained at the instance of the petitioner who is closely connected with the rival ruling party in the State, on the account of its political colour.

10. That apart, it is also noticed that though the allegation of causing inconvenience, loss, closure of market etc. have been made in the petition but no sufficient particulars have been furnished and only vague general allegations have been made.

11. It is noticed that one petition being WPA(P) 470 of 2022 on the issue of protest by the respondent No. 5 and action of the police authorities to stop the said protest is already pending before this Court wherein relevant issues are being examined.

12. That apart, learned Counsel for the respondent has also pointed out that petitioner regularly files such petitions and in the daily and monthly list of this Court as on today as many as 12 public interest petitions being WPA(P) 473 of 2022, WPA(P) 466 of 2022, WPA(P) 424 of 2022, WPA(P) 344 of 2021, WPA(P) 232 of 2021, WPA(P) 245 of 2022, WPA 17019 of 2019, WPA 3671 of 2018, WPA 29855 of 2017, WPA 25527 of 2016, WPA 32923 of 2013 and WPA 9019 of 2020 filed by the petitioner are listed.

13. So far as paragraph 56 in the matter of **S. P. Gupta (supra)** relied upon by the petitioner is concerned, that relates to general issue of locus standi, but so far as the present petition is concerned, earlier Division Bench of this Court has already refused to entertain a politically motivated petition at the instance of the present petitioner.

14. Hence, for the reasons mentioned above, we are not inclined to entertain this petition which is accordingly dismissed.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
23.09.2022

PA(SS)

(A.F.R. / N.A.F.R.)