

S/L. 8.
September 23, 2022.
MNS.

WPA No. 21781 of 2022

Manab Janti Kalyan Foundation
and another
Vs.
State of West Bengal and others

Mr. Debasish Saha,
Mr. Tarun Jyoti Tewari,
Mr. Madhu Jana,
Mr. Sagar Saha,
Mr. Barun Ghosh

... for the petitioners.

Mr. Naba Kumar Das,
Mr. Subhabrata Das

...for the State.

Mr. Jishnu Chowdhury,
Mr. Sandip Dasgupta,
Mr. Aviroop Mitra

...for the HIDCO.

Mr. Chayan Gupta,
Mr. S. Dasgupta

...for the NKDA.

Affidavit-of-service filed in Court today be
kept on record.

Learned counsel for the petitioners
contends that the petitioners sought for
permission to organise Durga Puja festival from
the HIDCO authorities, who are the owners of a

particular plot, on which a bus terminus is situated, as far back as on September 5, 2022. The HIDCO, in a terse refusal of a single short sentence contained in an e-mail dated September 17, 2022, rejected such request of the petitioners.

It is submitted that the petitioners have already made arrangements and incurred huge expenses for organising the Puja at the plot-in-question. Even the personnel who are working at the plot have no objection to the said Puja being held there.

It is submitted that on an operational basis, there would be no difficulty to the public at large if the Puja is held at the said location. However, the HIDCO authorities, without any rhyme and reason, refused the prayer of the petitioners, thereby violating the fundamental right to equality of the petitioners vis-à-vis Article 14 of the Constitution of India.

It is further alleged that political and other gatherings are regularly held at the said bus terminus, for which the HIDCO authorities do not raise any objection. Hence, it is submitted that the discrimination made against the petitioners is violative of the right to equality enshrined in the Constitution.

Learned counsel appearing for the HIDCO submits that the HIDCO authorities have no objection in the event the petitioners organise the Puja on a different plot of the HIDCO, designated for such purposes, on payment, subject to fulfillment of all requisite conditions by the petitioners.

As for example, learned counsel for the HIDCO, on instruction, submits that a permission can be granted in an appropriate zone near the Eco Park, subject to compliance of all formalities by the petitioners for the petitioners to organise the said Puja.

However, it is contended that Puja cannot be permitted to be held at the location-in-question.

It is further submitted that the Rules of the HIDCO prohibit any large gathering or any Puja to be held in a bus terminus. However, such Puja can be held in places designated for such purposes.

Upon hearing learned counsel for the parties, it transpires that the mere allegation of the petitioners that political rallies which were held at the location-in-question or may be held in future, does not create a negative right to equality

in favour of the petitioners, in the event such permission goes against the Rules of the HIDCO authorities.

That apart, it is beyond the scope of the writ court to issue a Rule of Mandamus directing the HIDCO authorities to permit the petitioners to hold Durga Puja festivities on the land belonging to the HIDCO, which discretion lies entirely with the owner.

Be that as it may, since the HIDCO authorities have fairly assured that an alternative plot shall be provided to the petitioners, subject to compliance of all formalities by the petitioners and payment of due charges, as near the location-in-question as possible, WPA No. 21781 of 2022 is disposed of by granting liberty to the petitioners to apply for permission at any of the alternative locations as mentioned in the printed list handed to be handed over by learned counsel for the HIDCO to the learned Advocate for the petitioners, to which the HIDCO is agreeable, upon the petitioners complying with all formalities, to permit the petitioners to hold the Puja.

If such an application is made, the same shall be processed by the HIDCO authorities

within twenty-four hours of the application being made by the petitioners and subject to compliance of all requisite formalities by the petitioners.

It is expected that the HIDCO shall permit the petitioners to organise their Puja at the said proposed location without any further objection.

Hence, on the prayer of learned counsel of the HIDCO authorities, the said authorities are directed to hand over an appropriate list of the locations, where the petitioners are permitted otherwise to hold Durga Puja, by 6.30 p.m. today. However, such locations shall be as proximate to the proposed intended location where the petitioners sought to hold their Puja, as mentioned in the writ petition, as possible.

The parties 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.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)