

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 28304 of 2022

Suman Pandit

Vs.

The State of West Bengal & Ors.

For the Petitioner : Mr. Soumya Majumder,
Mr. Sourav Chatterjee,
Mr. Moyukh Mukherjee,
Ms. Aishwarya Bazaz.

For the State : Mr. Debasish Ghosh,
Mr. Debraj Sahu.

Heard on: 20th December, 2022

Judgment on : 20th December, 2022

The Court:

This is an application under Article 226 of the Constitution of India praying for directions upon the respondents to set aside the orders of Sub-divisional Officer, Contai and accord all necessary permissions for conducting a public meeting Contai Railway Station ground on 21.12.2022 from 7.00AM to 8.00 PM and also for the use of microphone for the entire period.

Affidavit of service filed on behalf of the petitioner is taken on record.

A report filed on behalf of the State is also taken on record.

Learned senior counsel appearing for the petitioner submits as follows. The petitioner is the President of the Bharatiya Janata Party, Kanthi District Committee (Organisational). The party members of the petitioner's political party want to have a organisational district meeting held at the Contai Railway Station Ground on 21.12.2022. For these, necessary permissions were being sought. The meeting was to start from 7.00 AM and conclude at 8.00PM. About thirty thousand and odd people are likely to join the said gathering. A representation in this regard was made to the respondent no.5 being the Sub-divisional Officer, Kanthi. But, no response could be elicited. That is why a writ petition was preferred. By an order dated 08.12.2022 passed by this Court in WPA 27195 of 2022, this Court directed the Sub-Divisional Officer to permit holding of such meeting and to specify all necessary conditions, particularly enforcement of Noise Pollution Norms and also to obtain a clear undertaking from the petitioner to clear up the entire venue after such gathering. The Sub-Divisional Officer was also free to impose fair conditions towards security and to avoid inconvenience to the public at large. Pursuant to this, the Sub-Divisional Officer passed an order granting permission for the meeting by, inter alia, imposing a condition that the microphone (without DJ Box) should be used only from 9AM to 1 p.m. subject to the permissible decibel. However, if the meeting is held for a particular period, it would be necessary to make announcements in the gathering to

assemble and thereafter for the dispersal of the crowd. Otherwise, it could lead to untoward situations. Therefore, it is necessary to use the microphone for the entire period of the meeting and for half an hour more before the start of the meeting and half an hour more after the conclusion of the same. However, this use may be restricted to the venue itself. The other microphones which would possibly remain attached to the main system outside the venue could be turned off after a particular period.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The decision of the Sub-Divisional Officer, Contai was possibly prompted by the fact that there is another meeting at a nearby venue, which is supposed to commence at 2 PM. However, without going into the intricacies of such situation, the respondents would be able to come to a better understanding. The petitioner may be allowed to carry on their meeting for the relevant period to use a microphone for the entire period and for half an hour before the commencement of the meeting and after the conclusion of the same. But, this could be permitted only at the venue itself. The microphones or other sound systems connected to the main system which would be situated outside the venue should be disconnected at least at 6PM.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

Citizens of India and any political party, for that matter, have every right to hold a rally or a gathering at a reasonable place and at a reasonable time. However, these are subject to reasonable restrictions.

It appears that a permission has been sought in this regard by the present petitioner to hold the meeting at the Contai Railway Station ground on 21.12.2022. This Court, by an earlier order, has allowed the petitioner to hold the said meeting. Liberty was granted to the Sub-Divisional Officer to grant formal permissions regarding the use of sound systems.

A condition to stop the use of sound systems of a public meeting at 1 p.m. seems absolutely unreasonable and arbitrary, especially when the meeting is scheduled to continue till 8PM.

There is much merit in the submission of the learned senior counsel of the petitioner that for the proper sitting arrangement of the participants and for an orderly dispersal at the ground it is important that the sound system at the venue is permitted to run from half an hour before the commencement of the meeting till half an hour after the conclusion of the same.

Considering the attending facts and circumstances and upon hearing the parties, this Court is inclined to pass the following directions:-

- (a) The meeting proposed at the Contai Railway Station Ground be held on 21.12.2022 in terms of the directions passed by this Court earlier in WPA 27195 of 2022 and in accordance with law.
- (b) The order passed by the Sub-Divisional Officer, Contai is modified to the following extent.

(c) The use of sound system by the organisers of the gathering/meeting shall be permitted from 6-30AM to 8-30PM at the venue and not beyond it, meaning thereby, the sound systems are permitted to be operated within the venue during such period. But, the sound system or the speakers connected to the main system, which are outside the venue, would remain put off or disconnected till 7am and again be disconnected or put off at 6pm. Beyond such time, the sound boxes connected to the main system and outside the venue shall remain disconnected.

(d) In any event, the sound system shall run within the prescribed limits of decibel.

With these observations, the writ petition is disposed of.

All parties are directed to act on a server copy of this order, duly downloaded from the official website of this Hon'ble Court.

Liberty is granted to the learned advocate on record of the parties to communicate a gist of this order.

(Jay Sengupta,J.)