

16.05.2023

Sl.No. 1 Unlisted

Ct.No.16

Amalranjan

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

MAT 898 of 2023

With

CAN 1 of 2023

The State of West Bengal & Ors.

Vs.

Ashis Khamrai

Mr. Amitesh Banerjee, Sr.Standing Counsel

Mr. Suddhadev Adak

Ms. Ipsita Banerjee

...for the appellant

Mr. Koustav Bagchi

Mr. Debayan Ghosh

Ms. Priti Kar

...for the respondent/writ petitioner

Re: CAN 1 of 2023

This appeal from the judgment and order dated 15th May, 2023 passed by a learned single judge is admitted.

It is disposed of after dispensing with all formalities.

We have considered the application of “WBGDRB-2017 Group-D Waiting Aikya Manch” organisation to the Joint Commissioner of Police for permission to undertake a “Twilight Roadmarch” from Shahid Minar to Kalighat Temple on 17th May, 2023 at 6 P.M. with 400 persons approximately.

We have also been taken through the response of the Joint Commissioner of Police

(HQ), Kolkata dated 12th May, 2023 to the said application which is as follows:

“1. The given routes will severely hamper the vehicular traffic movement on Harish Mukherjee Road which will also disturb the movement to and from SSKM Hospital.

2. There is an important fire station at Hazra Road and Harish Mukherjee Road. Your proposed meeting and procession will completely stop the movement of fire brigade vehicles in case of any need.

3. The proposed program will severely impact on the movement of both Ashutosh Mukherjee Road and Harish Mukherjee Road. At the same time East-West movement also on Hazra Road will be stopped. It will affect the traffic of the major portion of Central and South Kolkata as it is a working day.

4. There are several educational hubs including Ashutosh College within the close proximity of the proposed routes and venues. Your scheduled programme will hamper the studies.

5. There is also a crematorium namely, Kewratala Sashan Ghat within the vicinity of your proposed program. Person carrying dead

bodies for last rituals will be obstructed for your scheduled program.

6. The devotees numbering thousands on daily basis take this route to visit Kalighat Kali temple.

7. At present the SKY Walk project on K.P. Lane is going on. Your schedule programme will disrupt the same also.

8. Moreover, the application of the proposed program was not made fully in prescribed format given in Kolkata Police website.

You are, therefore, advised to organise your program on the following alternate venue and route in consultation with local police station and traffic guard, if so desires:

Raja Subodh Mullick to Saheed Minar Square via. N.C. Street – Rafi Ahmed Kidwai Rd.- S.N. Bannerjee Rd.-Dorina Crossing-New Road.”

Aggrieved by non-consideration of his application, the writ petitioner filed a writ application on 15th May, 2023. The writ application was disposed of on that day by a learned single judge of this court by the following order:

“1. The petitioner happens to be the Convenor of WBGDRB-2017 Group-D Waiting, Aikya Mancha. They wish to hold a peaceful

rally from 6 p.m. to 8 p.m. on 17th May, 2023 (Wednesday). According to the route suggested by the petitioner, the rally shall originate at Shahid Miner taking Harish Mukherjee Road and end before the barricade at Kalighat Police Station.

2. The State had indicated that in principle they have no objection to the petitioner's rally but have suggested an alternative route.
3. Having heard the learned counsel for the parties and rights of citizens to hold peaceful protests, the petitioner may hold the rally as proposed by them on the route indicated herein above.
4. The petitioner shall name three persons, who shall be responsible for the peaceful and orderly conduct of the rally. Public at large should not be inconvenienced by the rally. There shall be no provocative statements or speeches given by the rally members.
5. The petitioner shall comply with any other lawful condition that shall be imposed on them by the Joint Commissioner of Police, Kolkata.

6. With the aforesaid directions, the writ petition shall stand disposed of.
7. There shall be no order as to costs.
8. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.”

The impugned order does not say whether it was confirming, modifying or quashing the decision of the police authority dated 12th May, 2023 which was placed before the Court. It merely says that the petitioner was allowed to hold the rally according to the route suggested by them. The route is not specified with details in the order.

We have taken into account the objection raised by the State.

After having considered the rival contentions of learned counsel, we modify the impugned order dated 15th May, 2023 in the manner following:

- a. The rally or procession may be allowed to commence any time after 12 noon but should end positively by 4.30 p.m., on 17th May, 2023 as by that time traffic flow of office employees returning home in addition to pedestrians on their way back from work starts mounting.

- b. The route shall not include Hazra Road and Harish Mukherjee Road.
- c. It might include such portions of Ashutosh Mukherjee Road as the police authority may permit.
- d. As mentioned in the order dated 15th May, 2023 the procession would end before the barricade at Kalighat police station.
- e. The police shall ensure by deployment of adequate personnel that in the Kalighat temple area the procession proceeds in a single line and that no breach of peace or other untoward incident takes place.

The impugned order is modified to the above extent only. The rest of the order is affirmed.

On the basis of this order, the discretion to approve the route is left with the Police Commissioner, Kolkata.

Urgent certified photo copy of this order, if applied for, be given to learned advocates for the parties upon compliance of all requisite formalities.

(Biswaroop Chowdhury,J.) (I. P. Mukerji,J.)