

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

Present:
The Hon'ble Justice Jay Sengupta

WPA 19203 of 2023

Swapan Manna

-vs-

The State of West Bengal & ors.

For the petitioner : Mr. Mr. Sourav Chatterjee
Mr. Moukh Mukherjee
Mr. Pritam roy
Mr. Soewel Bhattacharjee

For the State : Mr. Anirban Ray, GP
Mr. Amal Kumar Sen, AGP
Ms. Ashima Das (Sil)

Lastly heard on : 08.08.2023

Judgment on : 08.08.2023

Jay Sengupta, J:

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent-authorities to permit the petitioner to hold a meeting on August 9, 2023 at Pingbone Nabkung Ground (Math), Goaltore police station, Paschim Medinipur.

Affidavit of service filed in court be taken on record.

Copies of orders dated March 13, 2023, May 8, 2023 and May 19, 2023 passed by a coordinate Bench of this court in WPA No.5959 of 2023, 11360 of 2023 and WPA No.12664 of 2023, as filed in court on behalf of the petitioner, are taken on record. Copies are handed over to the learned Government Pleader appearing for the State.

Learned counsel for the petitioner submits as follows. The petitioner is a functionary of the Bharatiya Janata Party, which intends to hold a rally to commemorate the World Tribal Day. Earlier an application was made for holding such rally at Goaltore College ground (math). This was intimated to the respondents. However, the principal of the college withdrew the permission. This prompted the petitioner to choose Pingboni Nabakung Ground (Math), a privately owned ground, for conducting the said meeting. Necessary permissions were taken from the owners. In the proposed meeting of the petitioner, there will be a gathering of about 2000 men. An application was made before the inspector-in-charge of the local police station and the Superintendent of Police praying for permission to hold the meeting at the same ground on August 6, 2023. Till date there has been no response from the respondent-authorities in this regard. After leave was obtained for moving the writ petition and after notice was served upon the State, the

petitioner received an intimation from the IC, Goaltore police station dated August 7, 2023 that the respondents were refusing to grant the petitioner permission to hold the meeting at Pingboni Nabakung Ground. Because, on the prayer of one Bhaskar Chakraborty dated August 3, 2023, permission was granted to hold a procession and a meeting at Pingboni Hattola adjacent ground. Considering the prevailing sensitivity in the area, the permission was denied. This is only a colourable exercise to somehow prevent the petitioner from holding the meeting. This is not the first time that this was attempted. On several occasions, the petitioner had move this court and obtain orders for holding meetings and rallies. Reliance is placed on orders passed on March 13, 2023, May 8, 2023 and May 19, 2023 by a coordinate Bench of this court in WPA No.5959 of 2023, 11360 of 2023 and WPA No.12664 of 2023, respectively.

Learned Government Pleader representing the State submits as follows. It was essentially a problem of the petitioner that the earlier permission granted by the principal of the college was later withdrawn by him. Even before the present petitioner could apply for holding a meeting at the present venue, the said Bhaskar Chakraborty had applied for holding the meeting, on behalf of TMC at a nearby place to commemorate the same World Tribal Day. Such permission was granted and such meeting is to be held on August 9, 2023 from 10 a.m. till 7 p.m. The two venues are only about 500 metres apart. Considering the tension that is prevailing in the area,

it would not be proper to allow the petitioner to hold the said meeting at the said venue. That is why, the permission was denied. The decisions cited on behalf of the petitioner are not binding of this court, since they are based on different facts. In fact, such a case has not come out in the present facts. There will be a gathering of about 5000 men in the other proposed rally.

I have heard the submissions of learned counsels for the respective parties and have perused the writ petition and copies of documents filed on behalf of the parties.

It is indeed true that the petitioner failed to get the meeting done at the first venue selected by them. It is purely their problem that the principal of the college withdrew the permission granted earlier to them.

However, it is also true that after getting permission to hold the meeting at the private ground, the petitioner did apply for permission before the respondent-authorities on August 6, 2023 and the same was not responded to till today.

As was held by a coordinate Bench of this court on March 13, 2023 in WPA No.5959 of 2023 that “there should be a level playing field for all political denominations and ideologies in the State for

holding public rallies, gatherings and meetings. Law and order is indeed an issue that the State needs to look into.”

Here, both the meetings pertain to commemoration of the same event – the World Tribal Day. So, choosing another date is out of question.

In view of the above, let both the meetings be accommodated on the same day. For doing so the timings for the two meetings have to be altered a little.

Let the petitioner hold his meeting at the venue that was selected for it from 9 a.m. to 1.30 a.m. at the Pingboni Nabakung Ground. The other meeting sanctioned earlier by the respondents shall be held at the venue that was selected for it from 1.30 p.m. to 7.00 p.m.

A gap of 1 hour for is quite fair for assembling of a group and dispersal of the other.

It is an admitted position that there is distance of 500 metres between the two places. The said area shall be carefully manned by police personnel from the local police station who shall ensure that no breach of peace takes place.

The petitioner shall abide by the conditions for hold such meeting. They shall name three persons responsible for compliance

of all terms and conditions to hold the meeting. The meeting shall not cause any obstruction to the public at large. The sound volume stipulations should also be scrupulously maintained. After the meeting is over, the venue of the meeting shall be cleaned up by the petitioner's men and agents.

The police authorities shall make necessary arrangements to ensure that no breach of peace takes place.

With the above observations, WPA No.19203 of 2023 is disposed of.

Since affidavit-in-opposition is not called for, the allegations made in the writ petition is deemed not to be admitted by the respondents.

Certified copy of this order, if applied for, shall be made available to the parties.

All parties are to act on the server copy of this order duly downloaded from the official website of this court.

(Jay Sengupta, J.)