

Ct. 14
Item No.12
26.09.2023
(Suvendu)

CAN 1 of 2023
In
WPA 22637 of 2023

Ashis Khamrai
Vs.
The State of West Bengal & Ors.

Mr. Koustav Bagchi
Mr. Debayan Ghosh
Mr. Priti Kar

.....for the petitioner

Mr. Amal Sen
Ms. Amrita Panja Moulick
Mr. Jaladhi Das

.....for the State

This is an application praying for recalling and/or modification of the order dated 20.09.2023 passed by this Court in WPA 22637 of 2023.

Supplementary affidavit filed on behalf of the State is taken on record. Errors in some averments made in the writ petition now seems to have been corrected.

Learned counsel appearing for the applicant/ State submits as follows. On 20.09.2023, this Court passed an order allowing the petitioner to hold a public rally on 27.09.2023 between 1 p.m. and 5 p.m. on the following route – Theatre Road to Camac Street Crossing to Nizam Palace to Exide More to Ashutosh

Mukherjee Road to end at Hazra More with the delivery of some speeches. However, subsequently State has given it a second thought and has found that it would be very difficult to manage the traffic in a portion of the route considering the fact that several schools are there in the vicinity of the said route, particularly the stretch between Theatre Road, Camac Street Crossing, Nizam Palace and Exide More. That is why the State suggests an alternative route that would start from Theatre Road Extension to Exide More and then take the same route as agreed to earlier.

Learned Counsel representing the petitioner submits as follows. Since it was an order passed on consent on 20.09.2023, the same ought not be altered unless agreed to by both the parties. The petitioner has already made arrangements and informed everybody about the said route and time. It would be very difficult at the last moment to make any changes in respect of the route for the rally. However, the petitioner undertakes to take all the care so that undue harassment is not caused to the passersby including the children of the schools, if any, nearby.

I have heard the learned counsels appearing on behalf of the parties and have perused the application for recalling and/or modification and the maps provided by the State in this regard.

In this writ petition, the petitioner had earlier sought for permission to hold a peaceful rally in the route starting from Hazra More moving through Kalighat Fire Brigade to Harish Mukherjee Road to Debendra Ghosh Road to ATM Road to S.P. Mukherjee Road and to end at Hazra Crossing. This was strongly objected by the State because it might cause tremendous traffic congestion and also on the ground of promulgation of an order under Section 144 of the Cr.P.C in a portion of such route. The Court acceded to the said proposition and asked the parties to come up with a mutually agreeable route. Thereafter, on the consent of both the parties the route was fixed, which is - Theatre Road to Camac Street Crossing to Nizam Palace to Exide More to Ashutosh Mukherjee Road and to end at Hazra More with the delivery of some speeches.

First, making a change in such route at this belated stage would cause undue hardship to the petitioner.

Moreover, the State ought not digress from its earlier stand and ask the Court to again alter the route proposed. They should have been more careful before agreeing to a particular route in the first place.

Even in the body of the present application, there is no mention of the times of dispersal of the students for the nearby schools. Moreover, it appears

that most of the nearby schools have some parallel or connected roads for exit.

If both the parties take sufficient care and caution, there is no need to alter either the route or the time of the rally.

Therefore, I do not find any reason for altering or modifying the order passed by this Court on 20.09.2023.

However, it is reiterated that the petitioner shall organize the rally in a peaceful manner and shall abide by the existing rules and provisions of law in this regard. Neither any incitement or violence shall be caused during the rally nor shall there be use of any foul language at the time of rally or delivering the speeches. The petitioner shall also not block the roads and the rally shall proceed gradually towards its destination, but without any halt.

The respondent authorities shall make adequate police arrangements for the security of the participants as well as the passersby. If necessary, the respondent authorities would create a special channel on the roads for an easy passage of the rally.

With the above observations, the application being CAN 1 of 2023 is disposed of.

All parties shall act on the server copy of this order downloaded from the official website of this Court.

Learned advocate-on-record of the petitioner shall be at liberty to communicate a gist of the order to the concerned authorities.

(Jay Sengupta, J.)