

10th October,
2023
(AK)
23

W.P.A 22952 of 2023

Sudarsan Mandal
Vs.
The State of West Bengal and others

Mr. Billwadal Bhattacharyya,
Mr. Anish Kumar Mukherjee
...for the petitioner.

Mr. Amal Kr. Sen,
Ms. Ashima Das (Sil)
...for the State.

Mr. Prosenjit Mukherjee,
Mr. Nirmalya Kumar Das,
Mr. Arghya Kamal Das
...for the school authority.

1. The petitioner contends that the petitioner sought to hold a Durga Puja festival on the playground of the respondent no.7-school.
2. However, the school did not consider the representation of the petitioner on such score but the Commissioner, School Education, West Bengal vide a communication dated December 18, 2018 indicated that such matters should be referred to their superior authorities who in turn shall refer such cases to the school education department for further action, which memorandum was forwarded to the learned Advocate-on-record for the petitioner (page 31 of the writ petition). It is

argued that by virtue of the issuance of the said memo itself, it is evident that the school, which is a government aided educational institution, falls within the purview of State under Article 12 of the Constitution of India and, as such, is amenable to the writ jurisdiction of this court.

3. The petitioner invokes Article 14 of the Constitution of India inasmuch as, allegedly, other schools in the same area which stand on an equal footing as the respondent no.7-school have been permitting such Pujas and other political activities on their grounds.

4. It is argued that without any rhyme or reason and even without any rejection as such, the petitioner's representation to hold Puja on the school playground is not being acceded to.

5. It is contended by the school that by virtue of the Government Order No. ED-88(10) dated April 10, 1970, the use of buildings and grounds of government or aided institutions for political meeting or demonstration of any kind is forbidden.

6. It is, thus, submitted that the petitioner does not have a legal right which has been infringed to invoke the writ jurisdiction of this court.

7. Learned counsel for the State contends that the school playground belongs to the school concerned and there cannot be any blanket right of any person to hold or organize a Puja or other festival on such ground.

However, the school authorities have the discretion to allow or refuse such request by any person.

8. It transpires that by virtue of the Government Order dated April 10, 1970, the use of buildings and grounds of government aided institutions for political meeting or demonstration of any kind is forbidden.

9. However, the attempt to organise a Puja, which is a ceremonial festival, does not fall within the purview of political meetings or demonstration of any kind. Hence, the reliance placed by the respondent-school on the concerned Government Order is misplaced.

Vide Memorandum No. 358(49)-Sc/HS dated December 18, 2018 is concerned, the Commissioner, School Education, West Bengal has communicated to the Director, SCERT, West Bengal that it has come to the notice of the said authority that school premises are being allowed to be used for purposes other than education, thereby compromising the principal goals and objectives of furthering the cause of education wherefor those buildings and infrastructures are meant.

10. However, in the penultimate paragraph of the said communication, it has been indicated that all institutional and school authorities shall refer such cases of use of school infrastructures and premises for non-educational purposes to their superior authorities who in

turn shall refer such cases to the School Education Department for further action.

11. It is well-settled that a citizen does not have a right to perform religious worship on a particular plot of land by virtue of the Article 35 of the Constitution of India.

12. However, the Durga Puja festival in West Bengal is wider in periphery than a mere religious worship performed with regard to the deity and also has social connotations.

13. Be that as it may, even if other schools in the area, either government-aided or otherwise, have been permitting Puja to be organized in their premises, the same does not create any legal or constitutional right in favour of the petitioner.

13. The situation might have been otherwise if the ground-in-question was specifically designated to hold fairs or public festivals etc. However, a school playground, by no stretch of imagination, can be said to be a public ground designated for the purpose of holding festivals.

14. Even if a school playground belongs to a government-aided school, the same *ipso facto* does not convert the playground of the school, which is an educational institution, to a public, free-for-all area where any and everybody can seek to organize any festival whatsoever.

15. Thus, I do not find that any legal or constitutional right of the petitioner has been infringed by non-consideration of the petitioner's representation for organizing Puja on the school playground by the school authorities.

16. Hence, there is no cause of action for the instant application to justify interference under Article 226 of the Constitution of India.

17. Accordingly, WPA No. 22952 of 2023 is dismissed.

18. However, it is made clear that nothing in this order shall prevent the petitioner or any other citizen of the country from pointing out any infringement or illegality with regard to the violation of any State's Circular regarding Puja being organized on school playgrounds.

19. If such a challenge is preferred before the appropriate forum, nothing in this order shall prevent the appropriate authority/court from taking steps in that regard.

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.)