

03. 10.10.2023
Court No.6
.Tanmoy Ghosh

MAT 2006 of 2023

**Tridip Dhali & Anr.
-Versus-
The State of West Bengal & Ors.**

**With
IA No: CAN/1/2023**

Mr. Billwadal Bhattacharyya, Ld. DSGI,
Mr. Anish Kumar Mukherjee, Adv.,
Mr. Suryaneel Das, Adv.,
Mr. Chiranjit Pal, Adv.

...for the appellants/applicants.

Mr. Ashim Kr. Ganguly, Adv.,
Ms. Jyotsna Roy Mukherjee, Adv.

...for the State.

Mr. Alok Kr. Ghosh, Adv.,
Mr. Gurudas Mitra, Adv.

...for the Kolkata Municipal
Corporation.

Report filed on behalf of the State be kept with the records.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

Read order dated October 9, 2023.

Ms. Roy Mukherjee, learned Advocate representing the State, today says on instruction that the Police has not permitted any new puja to be organized this year. No permission has been granted for the puja that is sought to be organized by Kabardanga Mahila Durga Utsav Committee.

Both Ms. Roy Mukherjee and Mr. Ghosh, learned Advocates appearing for the State and Kolkata Municipal

Corporation respectively, say that applications are accepted only through AASAAN portal. No new registration is being permitted on that portal. This decision has been taken keeping in view the pressure on the traffic management system.

Be that as it may, we find that one of the grounds on which the application of the present appellants was rejected, is the order dated July 22, 2005, passed by a Division Bench of this Court in W.P. No. 21481(W) of 2004. However, it has been subsequently clarified by a learned Judge of this Court by an order dated October 18, 2012, passed in W.P. 23392 (W) of 2012, reported at **2012 SCC Online Cal 11713** that the arrangements that were directed to be followed in the 2005 Division Bench order, were to be operative only for 2005. We have also gone through the aforesaid Division Bench order dated July 22, 2005. We find that the co-ordinate Bench had recorded the guidelines issued by the Corporation and the Police and had directed that permission for putting up pandals for Durga Puja would be granted strictly adhering to such guidelines. We are also of the view that such observation of the co-ordinate Bench was meant for that year only, i.e., 2005.

Since the Competent Authority has declined permission to the present appellants on grounds, one of which we find is not sustainable, we refer the matter back to the Competent Authority for fresh consideration.

We are sure that the Competent Authority will keep in mind that Durga Puja is the biggest festival of the Bengalis and religious sentiments are associated with it.

Further, if even one new puja has been permitted by the Administration this year, there is no reason why the present appellants should also not be permitted. The appellants or their authorized representative will be granted a hearing immediately and they will be at liberty to place relevant material before the Competent Authority. A reasoned decision should be taken by the Authority in accordance with law but also keeping in mind Administrative exigencies. We do not bind the hands of the Competent Authority to take a decision in any particular manner. We have not decided anything. The ultimate decision will have to be taken by the Police Authorities and/or the Corporation Authorities.

Mr. Bhattacharyya, learned Advocate for the appellants says that the park, in which the relevant puja is sought to be organized, is used as a venue for fairs and carnivals regularly and, therefore, there should be no problem if the appellants are permitted to organize Durga Puja in that park.

We doubly clarify that we have not decided anything on merits. The Competent Authority shall take an independent and impartial decision keeping in mind that the appellants cannot be discriminated against. If the State Administration and/or the Corporation has

permitted any new Durga Puja to be organized this year, the appellants' application should also be considered favourably. Otherwise, there will be violation of Article 14 of the Constitution. The entire exercise will be completed within 48 hours from date in view of the fact that Durga Puja is knocking on the doors.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being MAT 2006 of 2023 and the connected application being IA No: CAN/1/2023 are disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)