

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta

WPA 1196 of 2024
All India Secular Front (ISF) & anr.
Versus
The State of West Bengal & Ors.

For the petitioners : Mr. Firdous Samim
Ms. Gopa Biswas
Ms. Payel Shome
Ms. Sampriti Saha
Ms. Purba Mukherjee
Ms. Mohona Das
Mr. Abhijeet Kar

For the State : Mr. Kishore Dutta, Ld. AG
Mr. Amitesh Banerjee
Ms. Ipsita Banerjee
Mr. Suddhadev Adak

Heard on : 18.01.2024

Judgment on : 18.01.2024

Jay Sengupta, J:

This is an application praying for a direction upon the respondent authorities to cancel, withdraw and quash the rejection/denial letter dated 13.01.2024 issued by the Joint Commissioner of Police, Kolkata and to allow the petitioners to hold a peaceful meeting in front of Victoria House or at any other place near Victoria House on 21.01.2024.

Exception filed on behalf of the petitioners in respect of the report of the State is taken on record.

Learned counsel appearing on behalf of the petitioners submits as follows. The petitioner no.1 is a registered political party under Section 29A of the Representation of Peoples Act, 1951 for contesting elections and for well-being and welfare of the public at large. The petitioner no.2 is the General Secretary of All India Secular Front (ISF, for short). The petitioners undertake various programmes in the State of West Bengal like rally, procession, peaceful assembly and several movements in democratic manner. The petitioners wanted to celebrate the Foundation Day of the petitioner no.1 on 21.01.2024 by conducting a mass meeting in democratic and peaceful manner in front of Victoria House or any other adjacent place. Accordingly, the petitioner no.2 sent an intimation to the respondent authorities on 24.12.2023 along with proposed map by e-mail. They intended to construct a makeshift "Mancha" measuring about 30ft./30ft. and 20ft. in height. There would be DSLR cameras, loudspeakers in 40 numbers and assembly of about 5000 people. It was stated that about 50

vehicles included buses could be there for parking. But, the respondent authorities asked the petitioner to apply in the prescribed format. The petitioners did so on 02.01.2024, which was received by the respondent authorities on the next date. In the said format, there is no place for suggesting any alternative or adjacent place. The respondents replied by a communication dated 13.01.2024 denying permission to hold such rally on several unspecified grounds. As regards the grounds stated therein, the Kolkata Police Marathon supposed to be held at 12 noon on the same day is at a different place. The programme of the SUCI party is also at R. R. Avenue near the Shahid Minar, which is not the same place as the venue sought. There is a mention of a Vintage Car Rally supposedly organized by the Statesman which is slated to start at 9 AM on that date, pass through the same road and is to continue for 2 hours. The petitioners are ready to start their function much after the conclusion of such programme and are willing to give a clear passage even during the time when the meeting would be held. The petitioners are willing to reduce the number of participants and take all possible measures and furnish undertakings for holding the meeting/rally. Actually, it has been an effort of the present Administration not to allow anyone else other than the ruling political party to hold a rally in front of the Victoria House. For some reason, they want to keep it exclusive for the ruling political dispensation. But, this is not permissible in law. Another organization, which sought such permission and was denied the same had to approach this Court. By an order dated 20.11.2023 passed in WPA 26206 of 2023, this Court allowed the said organization to hold a

meeting/rally. This was affirmed by the Division Bench on 24.11.2023 in the appeal being MAT 2283 of 2023 preferred by the State.

Learned Advocate General representing the State relies on the report and submits as follows. The allegations made in the writ petition and the exception are denied. As would be evident from the decision of the Hon'ble Apex Court in *Amit Sahni (Shaheen Bagh, In Re) –vs- Commissioner of Police and others*, (2020) 10 SCC 439, the right to assembly is subject to reasonable restrictions and nobody has a right to occupy a particular place for an indefinite period. The reasons for which the meeting cannot be allowed had clearly been mentioned in the response. Even if the other grounds are set apart, the famous car rally held every year cannot be disturbed. The meeting which is held on a particular day by the ruling political party to remember persons who had laid down their lives during an agitation is a very special case. It was allowed by an earlier government for the first time several years ago. It has continued since then. However, there is no special effort by the State Administration to deny any such meeting to be held in front of the Victoria House by others. Incidentally, during an earlier meeting of the petitioners held last year to celebrate their Foundation Day in Kolkata, their supporters suddenly started damaging vehicles, attacking police personnel present and created a chaos in the streets of Kolkata. There is no assurance that the same incidents would not be repeated. Three specific FIRs have been lodged and charge sheets filed. However, the State is agreeable to suggest/provide alternative venues like the Ram Lila Maidan at Sealdah for the petitioners' meeting.

At this stage, learned counsel representing the petitioner submits that the alleged incidents were an aftermath of provocations, attacks and assaults committed by miscreants belonging to the ruling political dispensation. The proceedings are pending adjudication.

The ratio laid down in *Amit Sahni (supra)* does not come in the way of granting permission for the meeting in question and on the contrary, bolsters the right to hold a peaceful assembly subject to reasonable restrictions. The facts are absolutely distinct though.

It is an admitted fact that the petitioner no.1 is a recognized political party in the State of West Bengal. It can fairly chose a place for holding a meeting or an assembly, especially on its Foundation Day. Evidently, political meetings had been allowed at the venue and all political outfits are entitled to a level playing field. Therefore, it is for the State to show sufficient reasons for not allowing the same.

It appears that the meeting of another political party and an assembly by another group are to be held quite at a distance from the particular place.

So far as the car rally is concerned, the same is to admittedly start at 9 AM and continue for 2 hours. Therefore, if a long window is kept between two events, there should not be any problem in holding both the events on the same day.

These and the nearby areas are the places where traditionally meetings, assemblies and rallies take place. There has to be some better and

more cogent reason for not allowing a meeting to be held at the particular place, especially when a permission had been sought quite some time back.

The issues of disturbances having taken place in the previous year's meeting are pending decision. It may have to be found out whether these acts were initiated by the other alleged miscreants or not. But, it is not for this Court to delve into such issues.

In any event, the ground of earlier violence pales into insignificance once the State offers alternative venues.

If necessary assurances and undertakings are taken from and/or particular person/s are named as the persons responsible for holding the rally, there should be no difficulty in ensuring a peaceful assembly. Similar restrictions can be put on the number of participants and vehicles to be used.

This Court does not find any justifiable reason for the State/respondents not to permit the petitioners to hold such meeting at the said venue on their Foundation Day i.e. on 21.01.2024 at a stipulated time.

In view of the above and in the interest of justice, this Court is inclined to pass the following directions:

- (a) The petitioners shall be permitted to hold a meeting on their Foundation Day i.e., on 21.01.2024 in front of Victoria House between 2:30 PM and 4:30 PM.

- (b) The number of participants shall be restricted to 1000 only and the stage to be built should not exceed a size of 20ft. /20ft. and an appropriate height.
- (c) The number of vehicles including buses required to be used/parked shall not exceed 15 in number.
- (d) The petitioners shall specify four individuals who shall be held responsible for conducting the meeting.
- (e) For abundant caution, a clear passage on the other side of the road shall be left open for vehicles to ply including cars that might get late while participating in the car rally.
- (f) If any prior arrangement is to be made for setting up the stage and the like, the same shall not be done between 9 AM and 1 PM on the said date.
- (g) The participants in the meeting shall not use foul language and shall not incite violence.
- (h) All relevant laws including the norms regarding sound restrictions shall be maintained, especially if loudspeakers are used.
- (i) The entire programme shall be videographed by the petitioners.
- (j) The respondent authorities shall deploy adequate number of police personnel and shall render adequate assistance and ensure the safety and security of the participants as well as the passersby. They shall also videograph the entire event.

With these observations, the writ petition is disposed of.

Parties shall act on a server copy downloaded from the official website of this Court.

(Jay Sengupta, J.)

Later:

At this stage, learned Advocate General representing the State prays for stay of the order.

The prayer is considered and is rejected.

(Jay Sengupta, J.)