

18.01.2024

36

PG/KS

Ct. No.1

W.P.A.(P) 26 of 2024

Suvendu Adhikari & Anr.

Versus

State of West Bengal & ors.

Mr. Soumya Majumder
Mr. Srijib Chakraborty
Mr. Anish Kr. Mukherjee
Mr. Suryaneel Das
Mr. Chiranjit Pal.....for the petitioners

Mr. Kishore Datta, Ld. AG
Mr. Amitesh Banerjee, Ld. Sr. Standing Counsel
Mr. Rudrajit Sarkar
Mr. Debangshu Dinda.....for the State

Mr. Ashok Kr. Chakraborty, Ld. ASG
Mr. K.J. Tewari.....for the Union of India

1. This public interest litigation has been filed by a member of the Legislative Assembly of West Bengal and a leader of a political party, wherein the petitioners seek for a writ of certiorari to quash the decision arrived at by the respondent authorities, which has the effect of allowing the perpetration of the public rally, which has been planned to be organised by the 6th respondent on 22nd January, 2024. The petitioners also prayed for issuance of a writ of mandamus to direct the respondent no. 1 and the State Police authorities to restrain the workers, members and officials of the 6th respondent/political party from conducting any rally,

as has been planned by the 6th respondent to be organised on 22nd January, 2024.

2. The petitioners also prayed for issuance of a writ of mandamus to the respondents 1 to 3, viz., the Chief Secretary, the Principal Secretary, Department of Home and Hill Affairs, Government of West Bengal and the Director General and Inspector General of Police, West Bengal to ensure that there is no breach of peace and tranquility in the State of West Bengal on 22nd January, 2024. There was also a prayer to deploy Central Para Military Forces in the State of West Bengal on 22nd January, 2024.
3. Several writ petitions have been filed before this Court not only by third parties but the present writ petitioner no. 1 himself seeking permission for holding rallies and meetings etc. The Court has passed orders from time to time and in certain cases, the Court has directed deployment of Central Para Military Forces wherein specific instances were brought to the notice of the Court as regards disruption of the movement of the public and the grave likelihood of breach of peace and tranquility.
4. The petitioners' grievance appears to be that on 22nd January, 2024, the consecration of Shri Ram Temple at Ayodhya is to take place and the present rally planned by the 6th respondent/political party is on the same date and there is likelihood of breach of peace.

5. Learned advocate appearing for the petitioners has drawn our attention to the averments made in paragraph 6 of the writ petition, wherein there is a reference to an official press statement announcing the rally to be conducted on 22nd January, 2024, which also mentions about the route of the rally in Kolkata city. In the said paragraph 6, it has been further stated that there has been instructions to all district officials of the party of the 6th respondent/political party to conduct such rallies in all blocks of the State on the said date.
6. In our view, sofar as the rally, which is to be organised on 22nd January, 2024 at Kolkata is concerned, the route of the rally has also been mentioned in the press statement. No doubt, such a rally will disrupt the normal flow of traffic and will definitely cause inconvenience to the general public. There may be cases, where the ambulances have to transport critically ill patients, who are likely to be affected. Therefore, it is the duty of the State as well as the duty of the 6th respondent/political party to ensure that the common public are not affected on account of this rally being organised or else, it may cause resentment in the minds of the common public, who have to commute to various places in the city on 22nd January, 2024, which is a working day.

7. So far as the instruction, which has been said to have been given to the district functionaries of the political party to conduct similar rally in all the blocks is concerned, this will cause immense hardship to the public of the various blocks in the State of West Bengal.
8. Since as of now it appears that no specific permission has been granted for conducting such rally blockwise, therefore, if at all, any organisation or the local or the district level unit of the political party is desirous of conducting a similar rally, it goes without saying that the procedure for obtaining permission, as notified by the State Government has to be scrupulously followed.
9. The apprehension of the petitioners is that permission has been granted for conducting certain programmes on 22nd January, 2024 coinciding with the consecration of the Shri Ram Temple at Ayodhya and there is every likelihood that because of the rally, those programmes will be affected and there is a likelihood of breach of peace and law and order.
10. The learned Advocate General, on instructions submitted that 35 applications were received and permissions have been granted for conducting such programme by various organisations and groups on 22nd January, 2024 between 12-00 noon and 12-45 p.m. in Kolkata. If such permission has been granted, it goes without saying that the rally proposed to be conducted by the 6th respondent/political party can in

no way hamper or affect the conduct of the programme, which is to be organised and conducted by those organisations for whom permission has been granted.

11. Learned advocate for the petitioners submitted that the permission, which has been granted is for conducting such programmes between 11.00 a.m. and 5.00 p.m. If that is so, then obviously, if the rally commences at 3.00 p.m. there may be a problem for such programme being conducted and going by the past experience, there may occur a breach of law and order. Therefore, it is the duty of the State to ensure that none of the programmes for which permission has been granted, should be affected in any manner and more particularly, during the procession, no speech or utterance shall be made hurting the sentiment of a section of people belonging to a particular religion or a sect and this shall be scrupulously followed by the organisers of the rally and all persons participating in the rally should be sensitised since if any violation occurs, then the organisers of the rally will have to be fixed responsibility for such untoward incident.

12. As mentioned earlier, sofar as the rallies, which are being directed to be conducted in the various places in the State are concerned, no such rally can be conducted unless and until the specific permission is granted by the police authority of the respective district as well as the district magistrate. If such

permission is granted, the route of the rally shall be clearly delineated with adequate safeguards and stringent conditions.

13. As rightly pointed out by the learned Additional Solicitor General, in the event permission is granted at the block level, the authorities are to ensure that the conditions imposed in the said permissions are scrupulously followed or else, the concerned authorities will be personally held responsible for breach of such conditions.
14. With the above directions/observations, the writ petition stands disposed of.
15. No costs.
16. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(T.S SIVAGNANAM)
CHIEF JUSTICE**

(HIRANMAY BHATTACHARYYA, J.)