

28.08.2024

WPA 21752 of 2024

**Kali Khatick
Vs.
The State of West Bengal & Ors.**

Mr. Srijib Chakraborty
Mr. Aditya Mondal

... .. for the petitioner

Mr. Amal Kr. Sen, APP
Mr. Lal Mohan Basu

... .. for the State

Affidavit of service filed by the petitioner in Court
be kept with the record.

Learned counsel appearing for the petitioner submits that the petitioner is the President of Scheduled Caste Morcha of Bharatiya Janata Party of the North Kolkata District and he and his associates have taken a decision to hold a sitting demonstration (Dharna Manch) at 10, J.L. Nehru Road, Kolkata – 700 013 on and from 29th August, 2024 to 5th September, 2024 from 10.00 A.M. to 9.00 P.M. as a protest against the barbaric incident which happened on 9th August, 2024 at R.G. Kar Hospital, Kolkata. An application to that effect has been made to all concerned police stations as well as Joint Commissioner of Police (HQ), Lal Bazar, Kolkata, but till date no permission has been granted by the concerned authority. Learned counsel for the petitioner prays for a direction upon the respondent authorities to grant permission to hold a demonstration (Dharna Manch) on and from 29th August, 2024 to 5th September, 2024 from

10.00 A.M. to 9.00 P.M. with around 1000 supporters at 10, J.L. Nehru Road, Kolkata – 700 013.

Learned counsel appearing for the petitioner refers to judgment dated 10th April, 1993 (State of West Bengal & Ors. Vs. Dr. Anindya Gopal Mitra & Ors.) reported in 1993 SCC OnLine Cal 126, order dated 24th November, 2023 in MAT 2283 of 2023 with I.A. CAN 1 of 2023 (The State of West Bengal & Ors. Vs. Jagannath Chattopadhyay) of the Division Bench of this Hon'ble Court and order dated 23rd August, 2023 in WPA 20535 of 2023 (Raj Chowdhury Vs. State of West Bengal & Ors.) of the co-ordinate Bench of this Hon'ble Court to strengthen his submission that there cannot be any prohibition to rally/demonstration which may be held by an organization peacefully.

Mr. Sen, learned counsel appearing for the State submits that as the venue point at 10, J.L. Nehru Road, Kolkata – 700 013 is an extremely crowded area and it will be difficult for the citizens at large to commute and the Dharna Manch should be at “Y Channel”/“Dorina Crossing” to safeguard the interest of public at large and that too for a maximum period of two days. Mr. Sen further submits that the organizer of the Demonstration (Dharna Manch) should intimate to the Joint Commissioner of Police (HQ), Lal Bazar, Kolkata, in writing regarding responsible persons for organizing such demonstration (Dharna Manch).

Mr. Sen relies on Supreme Court judgment dated 23rd February, 2012 [Ramlila Maidan Incident, In Re Suo Motu W.P. (Crl.) No. 122 of 2011] reported in (2012) 5 SCC 1, judgment dated 23rd July, 2018 (Mazdoor Kisan Shakti Sangathan Vs. Union of India and Anr.) reported in (2018) 17 SCC 324, judgment dated 15th September, 1972 (Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and Anr.) reported in (1973) 1 SCC 227 and a judgment dated 7th October, 2020 (Amit Sahni Vs. Commissioner of Police and Ors.) reported in (2020) 10 SCC 439 and submits that the State has adequate power to restrict and regulate rallies, dharnas, demonstrations etc.

Heard learned counsels for the parties at length.

This Court has taken judicial notice of the fact that there are several instances regarding processions, rallies, meetings etc. which are held in regular intervals in the State of West Bengal and more particularly in Kolkata. Demonstration/Dharna/Abasthan had also taken place on week days by different political parties.

It was held by a co-ordinate Bench of this Court as well as in the State of West Bengal and Ors. Vs. Jagannath Chattopadhyay in MAT No. 2283 of 2023 with I.A. CAN 1 of 2023 that there should be level playing field for all political parties for holding public rallies, gatherings, meetings and the law and order has to be looked into by the State. It was further held in a

judgment of our co-ordinate Bench reported in **2017 SCC OnLine Cal 1914 (Sasanka Sekhar Dey & Ors. Vs. State of West Bengal & Ors.)** that:-

“11.....If the assemblage of invitees to the function is not for an unlawful, purpose (which is not the case of the respondents), then such assemblage at a public place ought not to be restrained until and unless there is an imminent threat to the breach of public order. Even then, the restraint must be just and reasonable balancing the interest of the individual with that of public safety. It must not only be reasonable but also least invasive and minimal. In Ramlila Maidan Incident, In Re: (2012) 5 SCC 1, the Court held:-

“58 the requirements of existence of sufficient ground and need for immediate prevention or speedy remedy is of prime significance. In this context, the perception of the officer recording the desired/contemplated satisfaction has to be reasonable, least invasive and bona fide. The restraint has to be reasonable and further must be minimal. Such restraint should not be allowed to exceed the constraints of the particular situation either in nature or in duration. The most onerous duty that is cast upon the empowered officer by the legislature is that the perception of threat to public peace and tranquillity should be real and not quandary, imaginary or a mere likely possibility.”

In view of the above and in the interest of justice, this Court passes the following directions:

- i) Let the petitioner and his associates hold a peaceful demonstration (Dharna Manch) with not more than 1000 number of supporters on

and from 29th August, 2024 to 5th September, 2024 in between 10.00 A.M. to 9.00 P.M. at “Y Channel”/“Dorina Crossing”. The stage to be erected by the petitioner for peaceful demonstration (Dharna Manch) should not be more than 30 feet by 20 feet.

- ii) The petitioner shall abide by all the conditions for holding such peaceful demonstration (Dharna Manch) and the demonstration (Dharna Manch) shall not cause any undue obstruction to public at large.
- iii) The police authorities shall make necessary arrangements for security with good number of personnel so as to ensure that no breach of peace takes place.
- iv) The police arrangements would be made under the supervision of Joint Commissioner of Police, (HQ), Lal Bazar, Kolkata.
- v) Demonstration (Dharna Manch) shall be held subject to observance of rules in relation to noise pollution and without causing any inconvenience to public at large.
- vi) The place of demonstration (Dharna Manch) shall be appropriately cleaned after the demonstration.

The petitioner is requested to communicate this order dated 28.08.2024 to Joint Commissioner of Police,

(HQ), Lal Bazar, Kolkata intimating him the name of the person/persons who is/are organizing this demonstration (Dharna Manch).

With the above directions, the writ petition being WPA 21752 of 2024 is disposed of.

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

(Rajarshi Bharadwaj, J.)