

17.12.2024
Item No.2
PG/KS
Ct. No.1

W.P.A.(P) 503 of 2024
Sheru Sonkar
Versus
State of West Bengal & Ors.

Mr. Abhratosh Majumder, Sr. Adv.
Ms. Sumita Shaw
Mr. Nilendu Bhattacharya
Mr. Sujit Gupta
Ms. Supriya Majumder
Mr. Soumen Chatterjee
Ms. Sayani Das
.....For the Petitioner

Mr. Kishore Datta, Ld. A.G.
Mr. Anirban Roy, Ld. G.P.
Mr. Nilotpal Chatterjee
Mr. Swapan Banerjee
Sk. Md. Galib
Mr. Kaustav Chatterjee
Mr. D. Sahu
.....For the State
Mr. Dhiraj Trivedi, Ld. D.S.G.I.
Mr. Arijit Majumder
.....For the U.O.I.

Mr. Rahul Sarkar
Ms. Dipika Sarkar
.....For the Respondent no.11
Mr. Billwadal Bhattacharyya, Ld. Sr. Adv.
Mr. Anish Kumar Mukherjee
Mr. Tamoghna Pramanick
.....For the Private Respondents

1. By this public interest writ petition, the petitioner has highlighted a very important issue concerning the proposed agitation of an organization called as “Bharat Jakat Majhi Pargana Mahal, Traditional Social Institution, Medinipur Zila (Undivided)”. The said organization appears to be an unregistered organization and, therefore, the petitioner has impleaded the private respondent nos.15 to 25, who represent the organization

of whom the respondent no.15 is the Zilla Pargana of the undivided Medinipur Zilla, as has been mentioned in the letter-pad of Bharat Jakat Majhi Pargana Mahal.

2. The grievance of the said organization appears to be with regard to setting up of a Santhali Medium Education Board and related issues.
3. The learned advocate representing the private respondents has placed before us a copy of the representation given to the Government of West Bengal addressed to the Hon'ble Chief Minister dated 30th October, 2024, wherein the following six demands have been placed:-

“Demands:

- 1. Immediately set-up Santhali Education Board for Santhali Medium Education.*
- 2. Formation the monitoring committee for Santhali Medium Education in this district.*
- 3. Blocks of the Paschimanchal areas under the State of West Bengal should include “Santhali Language” as Regional Language for “Gramin Dak Sevak” and central/ State govt. jobs. In this case, preference should be given to those who have passed M.P. & H.S. through Santhali Medium.*
- 4. The laws of the 5th Schedule of the Indian Constitution should be implemented immediately by identifying the tribal areas.*
- 5. A commission consisting of a retired judge of the High Court should be constituted to investigate and reject the fake ST certificate immediately.*
- 6. Take strongly steps from your end to repealed the Anti-tribal Uniform Civil Code-2024.”*

4. The representation also states that the Government should take necessary action to implement the demands by 15th December, 2024; otherwise, there is a threat stating that they will be forced to embark on an

indefinite mass movement from 20th December, 2024 involving thousands of tribal people.

5. So far as the demands, which have been set out above, we find none of the demands can be sought to be enforced by issuance of a writ of mandamus as essentially they deal with policy matters as well as classification of a particular community as a reserved category under the Constitution of India. Copy of another representation by the same organization addressed to the Project Manager, National Highways Authority of India, Paschim Medinipur dated 26th November, 2024 has been placed before us from which it is seen that the organization has taken an unanimous decision to take National Highway – 6 blockage programme and they proposed to block the National Highway indefinitely from 6 a.m. on 20th December, 2024.
6. The question would be as to whether the organization and the organizers, some of whom have been impleaded as private respondents in this writ petition can do so, as mentioned in their representation dated 30th October, 2024 and 26th November, 2024. The answer to the said question should be a definite no.
7. We had an occasion to deal with the more or less a similar issue involving a particular community called Adibasi Kudmi Samaj, where they planned agitation on 20th September, 2023 proposing to indefinitely block

the National Highways, the Railways etc. thereby affecting the train services and the movements of other modes of transport. This was objected to and a public interest writ petition was filed by the member of Purulia Chamber of Trade & Industry in **W.P.A. (P) 503 of 2023**.

8. The Court considered the entire matter as well as the decisions of the Hon'ble Supreme Court in **Amit Sahni (Shaheen Bagh. In Re.) – Versus – Commissioner of Police & Ors.** reported in **(2020) 10 SCC 439** as well as the decision of the High Court of Gauhati in **Lower Assam Inter, District Stage Carriage Bus Owner's Association – Versus – State of Assam & Ors.** reported in **(2019) 5 Gauhati Law Reports 642** and it was held that the Samaj, which had proposed the blockage of the National Highways and the railway tracks cannot hold innocent citizens to ransom by seeking to hold an indefinite protest by blocking the railways and the roadways.
9. Having come to such a conclusion, certain directions were required to be issued and the same were issued by order dated 19th September, 2023 and it will be useful to refer to the operative portion of the said order:-

“13. Thus, we are of the prima facie view that the Samaj and its members cannot hold innocent citizens to ransom by seeking to hold an indefinite protest by blocking the railways and the roadways.

14. In the light of the above, we direct the State Government to deploy additional forces

including specialised forces and if necessary, forces from the neighbouring States of Jharkhand, Orissa and Chattisgarh may also be requisitioned by the State Government so that the influx of the protesters to the core area of the protest is prevented. Checks and balances need to be maintained. The roads leading to the proposed site, where the protest is being scheduled to be conducted can be closely monitored and the flow of traffic can be prevented/restricted, unauthorised use of vehicles, goods carriages for transportation of passengers shall be prevented and / or other steps incidental to the same shall be adopted by the State Government.

15. The Railway Protection Force shall also be sensitised and if additional deployment is required in the railway stations, the same shall also be requisitioned.

16. Apart from taking note of the above measure for controlling the law and order situation, the protesters need to be sensitised as to what is the forum before which they will have to agitate their grievance.

17. As mentioned earlier, this Court had declined to entertain a prayer for declaring the particular community as a Scheduled Tribe Community by way of a public interest litigation by observing that the relief has to be sought before an appropriate forum. This aspect of the matter should be known to the people, who joined the protest. Many of whom may not be fully aware about the implications of the protest and the consequences thereof. This can be done by way of public address system or by the use of social media. The leaders of the Samaj can be called for discussion and they may be impressed that such form of protest, as proposed by them, would cause immense hardship to innocent citizens apart from causing huge loss to the State exchequer.

18. All effective steps shall be taken by the State Government and, if in their opinion, additional deployment of force is required, they can also requisition the Central Government for deployment of Central forces so as to work in tandem with the State forces to ensure that the public of the four districts as well as the neighbouring States are in no manner put to difficulty or inconvenience on account of the protest announced to be conducted from 20th September, 2023.

19. *At this juncture, it would be beneficial to refer to the observations of the Hon'ble Supreme Court in **Amit Sahni (Shaheen Bagh. In Re.) (supra)**, wherein the Hon'ble Supreme Court held that it is the responsibility of the respondent authorities to take suitable action, but then such suitable action should produce results."*

10. The above decision had attained finality and we are informed by the learned Advocate General that after the order was passed, the said Samaj had withdrawn the agitation, but, however, the agitation took a different turn after a month, where without any advance intimation or permission, the Samaj went on a rampage in the City of Kolkata causing great inconvenience to the public and it is also alleged that several persons were also injured.
11. As mentioned above, the demands are essentially policy matters and matters involving inclusion of a community as a reserved category in the Constitution of India, the Court cannot issue any direction to the Government to act in a particular manner or to formulate a policy in a particular manner.
12. So far as the demand no.5 is concerned, the organization seeks for a Commission to be established consisting of the retired Judge of the High Court to investigate and reject the fake ST certificates immediately.
13. The learned Advocate General submitted that action has been taken for thorough verification of ST

certificates, which have been issued in the past and wherever it has been found that the certificates are fake, immediate action has been taken to cancel those certificates. In fact, one public interest writ petition is also pending before this Court, wherein appropriate directions have been given and periodic reports have been filed, which shows that there is action being taken to scrutinize the ST certificates, which have been issued earlier and to cancel those certificates, if the candidates do not belong to the ST community and have obtained such certificates in a fraudulent manner.

14. Thus, considering all these aspects, we are of the clear view that the said organization viz. Bharat Jakat Majhi Pargana Mahal of which the respondent no.15 is a Zilla Pradhan of the undivided Medinipur Zilla cannot organise any blockage on highways or the railway lines, as proposed and mentioned in their representation dated 30th October, 2024 and 26th November, 2024.

15. Therefore, there will be an order of perpetual injunction restraining this organization and its members individually and collectively from conducting any agitation, be it for a day or indefinite blocking the National Highways or the railways, which they have proposed to do from 6 a.m. on 20th December, 2024. In the event, this order is being violated, the respondent/State is at liberty to take appropriate legal

action against those persons, who defy or violate this direction.

16. So far as the representation given to the Hon'ble Chief Minister of the Government of West Bengal dated 30th October, 2024, it is for the Government to consider the representation, since we are of the clear view that the demands set out in the representation cannot be implemented or directed to be implemented by issuance of a writ of mandamus.
17. Since, the issue involves a large section of public, it would be advisable for the Government to take into consideration the representation and if feasible, to call for a discussion with the members of the said organization, so that the issue can be sorted out.
18. With the above observations/directions, the writ petition is disposed of.
19. No costs.
20. 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.)