



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 369 OF 2024

1. Anil Subhash Wankhede
2. Rajaram Bhaulal Patil

VERSUS

1. The State of Maharashtra
Through its Home Secretary,
Mantralaya, Mumbai.
2. The Director of General Police,
Mumbai.
3. The Superintendent of Police,
Jalgaon (Rural).
4. The Police Inspector,
Police Station, Chopda, Dist. Jalgaon.

...

Advocate for the Petitioners : Mr. Kulkarni Suresh Madhusudan
Addl. PP for Respondent/State : Mr. M.M. Nerlikar

...

**CORAM : MANGESH S. PATIL &
SHAILESH P. BRAHME, JJ.**

DATE : 20 FEBRUARY 2024

ORDER :

- . Heard both the sides.
2. By the communication under challenge (Exhibit-B), the Police Inspector of Chopda Police Station, District Jalgaon has refused permission being solicited by the petitioners and few others for

arranging a congregation in a field next to the Court at Chopda on 21.02.2024.

3. Considering the fact that the communication was received by the petitioners yesterday and the congregation is to take place tomorrow, we have granted leave to circulate the papers. We have heard both the sides.

4. By the impugned communication, permission has been refused for following reasons :

(i) The main speaker Mr. T. Raja Sinh Thakur (Raja Bhayya) who is a sitting MLA from Telangana State, tends to indulge in hate speech;

(ii) An issue regarding law and order had cropped up in Chopda City between two sects and potentially the congregation could lead to some such serious issue regarding law and order;

(iii) Mr. T. Raja Sinh has delivered a speech at Solapur on 06.01.2024. Considering the utterances made by him, offence has been registered at Solapur Police Station on 07.01.2024 being Crime No.4/2024 for the offences punishable under Sections 153A, 295A, 188 read with 34 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

(iv) The Chopda City has the history of communal riots.

(v) As many as 45 offences have been registered against Mr. T. Raja Sinh Thakur at various police stations outside Maharashtra for the offences punishable under Sections 153A of the IPC read with several other

sections of the IPC. Even in the State of Maharashtra, the offences of the same kind have been registered against him at five places;

(vi) Action in the preventive detention law was initiated against Mr. T. Raja Sinh Thakur in Telangana State.

5. The learned Advocate for the petitioners would submit that the impugned communication refusing the permission is based on unsustainable apprehension. He would submit that the petition expressly mentions that even in Chopda City there have been no communal riots during last ten years. He would submit that in spite of the offence having been registered at Solapur in the first week of January, 2024, similar congregations were permitted by the concerned police officers at Bidkin, Taluka Paithan and Hupri Taluka Hatkanangale Dist. Kolhapur, Maharashtra.

6. He would also submit that similar permissions were granted by Yavatmal Police and at Raipur, Chhattishgarh State, which were challenged by filing Writ Petitions before the Supreme Court. However the Supreme Court on 17.01.2024 refused to entertain the petition and based on that the police officer of Hupri Police Station had granted permission.

7. The learned Advocate further submits that the petitioners have already convinced Mr. T. Raja Sinh Thakur, not to indulge in hate speech or to make such utterances as would be potentially prejudicial to the

public order. He would submit that pursuant to the permissions granted by the concerned police, congregations have taken place at Bidkin as well as Hupri strictly abiding the directions of the Supreme Court. No offence has been registered after the meetings were held particularly in respect of the speeches delivered by him at both the places. He submits that since this is the recent conduct, post-registration of crime at Solapur in the first week of January, 2024, the apprehension being entertained by the respondent/PI. of Chopda Police Station would not be sustainable. The petitioner's undertake to take necessary and utmost precaution not to create any law and order situation and would abide by any directions to be given.

8. The learned APP as a fact admits that after the offence was registered at Solapur in the first week of January 2024, the meetings have been successfully held at Bidkin and Hupri and no crime has been registered in respect of the speeches delivered by Mr. T. Raja Sinh Thakur at both the places. He would submit that however considering the fact that Mr. T. Raja Sinh Thakur has been implicated in so many crimes, particularly under Section 153A of IPC, across the country that fact in itself is sufficient to indicate his nature and the potential to cause disburse to public peace and order. If the PI. has assessed the situation based on such criminal history, no fault can be found with the impugned communication refusing permission. It is the subjective satisfaction to be arrived at by the Police Officer and this Court may not substitute its views.

9. We have carefully considered the rival submissions and perused the papers. Though the copy of the petition filed before the Supreme Court is not before us and does not form part of the record, on our request, learned Advocate for the petitioners demonstrates from the Supreme Court Website, a copy of the petitions filed before the Supreme Court that permission granted for convening the meetings in which Mr. T. Raja Sinh Thakur was to address, were challenged before the Supreme Court, in which the following order was passed :

“ . It is to be noted that persons against whom allegations have been made, have not been impleaded as party to the present writ petition(s)/application.

. Nevertheless, we would require the authorities to be conscious that no incitement to violence and hate speech are permissible.

. The District Magistrate (D.M.) and the Superintendent of Police (S.P), Yavatmal, Maharashtra and Raipur, Chhattisgarh will take notice of the allegations made in the present application, a copy of which will be served on each of them.

. The concerned D.Ms. And S.Ps. Will take necessary steps, as may be required. If necessary and deemed appropriate, police/administration will install CCTV Cameras having recording facility, so as to ensure identification of the perpetrators in the event of any violence/hate speech.”

10. It is necessary to note that admittedly, the offence was registered at Solapur on 07.01.2024 prior to the order of the Supreme Court. In fact, based on that order, permission was granted to convene the meeting by Hupri Police, albeit the order passed by the Bidkin Police

does not refer to it.

11. Admittedly, pursuant to the permission granted, the meetings have been held at both the places that is Bidkin and Hupri. No crime of any kind has been registered against Mr. T. Raja Sinh Thakur, thereafter at either of the places.

12. The impugned communication does not expressly refer to the aforementioned circumstances and the decision has been taken to refuse permission in a lopsided manner. If the decision was to be taken yesterday, although the application was filed in the month of January, all these facts could have been brought to the notice of respondent no.4/PI. of Chopda Police Station, if he would have called the petitioners before passing the order.

13. Be that as it may, the aforementioned circumstances in our considered view are indicative of the fact that irrespective of the criminal record of Mr. T. Raja Sinh Thakur, subsequent to the order passed by the Supreme Court, he has not been involved in a similar crime.

14. Besides, the petition itself contains a specific statement that during last ten years, there has been no communal riots in the Chopda City.

15. In the light of the aforementioned facts and circumstances, it would be appropriate that the petition is allowed and the respondent/P.I. is directed to grant permission by imposing necessary and appropriate conditions keeping in mind, the law and order situation, including the directions issued by the Supreme Court. Hence the following order :

ORDER

- (i) The Criminal Writ Petition is allowed.
- (ii) The impugned communication is quashed and set aside.
- (iii) The respondent no.4/Police Inspector shall grant permission to the petitioners by imposing necessary conditions as may be deemed fit and appropriate by passing a fresh order.
- (iv) The decision shall be taken and communicated to the petitioners immediately.
- (v) Parties to act upon the authenticated copy of this order.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]