



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

CRIMINAL WRIT PETITION NO. 800 OF 2024

**VIJAY UTTAM WAGHMARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for the Petitioner : Mr. Gaikwad Amol Ratan
Addl,PP for Respondents/State : Mr. A.R. Kale

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

DATE : 26 APRIL 2024

PER COURT :

- . Heard both the sides. As we have been experiencing from time to time and have already passed few orders of similar kind, the writ petition presents a state of affairs which reflects on the ability of the law enforcing agencies to tackle the law and order problem.
2. The petitioner who heads a group is challenging the decision of the respondent no.3 refusing to grant him permission for taking out procession for celebrating birth anniversary of Dr. Babasaheb Amedkar on 27.04.2024 in village Pimpalgavhan, Taluka Kaij, District Beed.
3. Learned advocate for the petitioner submits that though there are two groups intending to take out procession for the same cause, they had applied for permission to take out the processions on different

dates. Apprehending some law and order situation, the permission has been refused. There are no sufficient and cogent reasons to entertain any such apprehension. In fact the petitioner is ready and even had sought permission to take out the procession on any other date. Apart from rejection of permission, the petitioner has been slapped with a notice under Section 149 of the Code of Criminal Procedure as well.

4. Per-contra the learned APP in presence of the concerned police officer, submits that there are inputs of likelihood of there being some law and order situation if the procession is taken out, in view of there being rival groups. Besides, due to the extant Loksabha election, police force is inadequate to tackle the situation in case it arises and creates a law and order problem.

5. He also points out that an initiative was taken by the concerned police officer. A joint meeting was held with both the rival groups, still no amicable solution could be reached. There is every possibility of members of the other group creating law and order problem if the group led by the present petitioner is permitted to take out the procession.

6. Obviously, the police machinery is responsible for maintaining law and order and one cannot straightway discard the apprehension being entertained by it. However, simultaneously, one cannot ignore the fact that it is a matter of taking out a procession to celebrate the birth anniversary of Dr. Babasaheb Ambedkar and not an agitation. We do

not foresee as to why anybody, may be a rival group, could create a law and order problem while celebrating the birth anniversary. Rather even the members of the other group would be keen to take out a similar procession on a different date. Merely because of lack of adequate force, the permission cannot be allowed to be refused, particularly when, as we have been observing, it is a matter of taking out procession to celebrate and not an agitation or march for some cause for public demand.

7. In the circumstances, we allow the writ petition, quash and set aside the notice under Section 149 of Cr.P.C. served to the petitioner and direct the respondent no.3 to grant permission immediately, simultaneously, taking appropriate steps of imposing suitable conditions for maintaining the law and order during the procession. The petitioner shall not indulge in any act detrimental to the law and order and shall ensure that it takes place in a peaceful manner.

8. The order is dictated in open Court and the parties should act without waiting even for an authenticated copy.

[SHAILESH P. BRAHME, J.]

[MANGESH S. PATIL, J.]

Najeeb