

Item No.-
ADSL. 1
09.01.2025
Rohan
Court No. 8

**In the High Court at Calcutta
Civil Appellate Jurisdiction
Appellate Side**

**MAT 34 OF 2025
With
CAN 1 of 2025**

**State of West Bengal & Ors.
Versus
Jagbir Singh**

**Mr. Kishore Dutta, Ld. AG,
Mr. Dipanjan Datta, Sr. Govt. Adv.
Mr. Debangshu Dinda,
Mr. Subhajit Choudhury
... for the State**

**Mr. Rajdeep Mazumder, Sr. Adv.,
Mr. Moyukh Mukherjee,
Mr. Koustav Lal Mukherjee,
Ms. Sagnika Banerjee,
Mr. Soumya Raha
... for the Respondent**

1. The Hon'ble Apex Court in ***Amit Sahni (Shaheen Bagh, In Re) vs. Commissioner of Police & Ors.*** reported in ***(2020) 10 SCC 439*** highlighted the importance of a protest, during the British era for freedom of the country from the colonial rule, signifying a dissent or expressing a dissent against the colonialism in relation to their actions and the decisions. The right to dissent in the form of a peaceful protest, therefore, had been ingrained into the core values of life and the Rights of a citizenry originating from the freedom struggle to the recognition of such Right after adoption of a Constitution by the people of this country. Article 19(1)(a) of the Constitution of India recognizes the fundamental Right of the citizen of the country to free speech and expression and Article 19(1)(b) of the Constitution bestowed Right to assemble peacefully without arms. Thus, Rights runs in tandem and cohesively recognizes the Right of every citizen to

assemble and make peaceful protest but such Right is not unbridled and/or inchoate as it is subject to reasonable restrictions. Every citizen has duties and responsibilities in maintaining the integrity and security of the country.

2. In ***Amit Sahni*** (*supra*), the Hon'ble Apex Court was considering a case where the public thoroughfare or a street was occupied by a large gathering not only disrupting, the commuters to have free access but was causing serious inconvenience to the inhabitants or the passersby. In such event, it was held that the Right to protest, though inhered in every citizen as a Fundamental Right, but an equilibrium is required to be maintained and it is desirable that such protest must be at the designated places alone.
3. Taking a clue from the aforesaid observation, Mr. Kishore Dutta, learned Advocate General, submits that each and every time, the protest be peaceful or otherwise, may not be permitted at every place but such protest may take place at the designated place.
4. There is no quarrel that the streets and the public path or the public thoroughfare are meant for the commuters as well as the means of plying the vehicles at the different corners of the city and, therefore, the Freedom of Speech or utterance and assembling at the public place must be guided by certain restrictions which must withstand on the test of reasonability.
5. As indicated above, the Right to protest peacefully is a Fundamental Right and every citizen of the country embraces such right which imbibed within itself, the Right to dissent in peaceful manner.
6. An application was made for permission to hold rally the today, on 2nd January, 2025 but there was no response from the concerned Officer. By the impugned order, the Single Bench has taken into account the various aspects and the expecting the large gathering

which may cause inconvenience, therefore, restricted the same to a specified number. The Single Bench also reduced the timing of the protest rally which is claimed to be organized peacefully. Our attention is drawn to the route of the said rally over which two major and important hospitals are situated.

7. Though the Single Bench has recorded the submission of the State in this regard, but did not make any observations thereupon. We cannot overlook the fact that the hospitals treat the human life and at times, there may be an emergent situation which requires timely intervention in order to save the life of a human being. While embarking on the road situated along the side of the aforesaid hospitals, it should be ensured that in case of any emergency or any beneficiary of the said health facility intends to avail the same, there should not be any disruption in this regard and smooth passage shall be ensured.
8. Since the rally has already commenced, we do not intend to put any restraint thereupon but we make it clear that there should not be any slogan or words of incitement causing a serious problem in the integrity of the country as well as the public order and at the destination point, the people who participated in the said rally, would disperse.
9. We further make it clear that the interference by this Court shall not be treated as a precedent for establishing the aforesaid route as a designated place.
10. With this modification, the appeal being **MAT 34 of 2025** is **disposed of** and the connected applications, if any, are also disposed of.

(HARISH TANDON, J)

(PRASENJIT BISWAS, J)