

22.01.2025
Item No.11
gd/ssd

MAT/104/2025
ALL INDIA SECULAR FRONT ISF REPRESENTED BY
BISWAJIT MAITY AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
IA NO: CAN/1/2025

Mr. Firdous Samim,
Ms. Gopa Biswas,
Ms. Samprii Saha,
Ms. Swati Dey,
Mr. Rishav Ahmed Khan
..for the Appellants.

Mr. Kishor Dutta, Id.AG,
Mr. Swapan Banerjee,
Ms. Sumitra Shaw,
Mr. Diptendu Narayan Banerjee
..for the State.

1. This intra court appeal by the writ petitioners is directed against the order dated 20.1.2025 in WPA 1390 of 2025.

2. Firstly, we need to point out that the appeal itself has become infructuous on account of the fact that the foundation day which was proposed to be celebrated by the first appellant/political party is already over as it was to be held on 21st January, 2025.

3. The learned advocate appearing for the appellants would vehemently contend that certain observations made by the learned Single Bench would impinge upon the rights of the political party and its leaders of whom one is a sitting Member of the Legislative Assembly and this would be cited as a

precedence in the years to come whenever the political party proposes to celebrate for the foundation day.

4. We have carefully gone through the impugned order and we find that the learned Single Bench after taking note of the order passed by the Joint Commissioner of Police dated January 14, 2025 made an observation that without going into the details of the contentions advanced in the writ petition, the court noted the order passed in an earlier writ petition in WPA 1196 of 2024 and the appeal preferred by the State against the said decision in MAT 148 of 2024 quoted paragraphs 5, 6, 7 and 8 of the Division Bench judgment took note of the submissions of the learned advocate for the appellant/writ petitioners that the State on the same ground is refusing permission for the programme to be conducted in January, 2025 and also noted the other submissions made by the learned advocate for the appellant/writ petitioners. Thereafter the learned Single Bench has noted the submissions of the learned Advocate General appearing for the State and the decision of the Hon'ble Supreme Court relied upon by the learned Advocate General in *Amit Sahni (Shaheen Bagh, In Re) v. Commissioner of Police and Others* in (2020) 10 SCC 439 quoted paragraphs 16 and 17 of the judgment of the Hon'ble Supreme Court and also made an observation that the respondent/police is silent in respect of the conduct of

the writ petitioners and its members in the year 2024 and observed that it can be presumed that there were no complaints against the writ petitioners and/or its members and/or its sympathisers and/or office bearers. Thereafter the court made the following observations:

“Having considered the periphery of Article 19 of the Constitution of India and the history of political parties prevailing in the State, one incident cannot be relevant as a precedent for the political party concerned for not allowing them in each and every year. To that extent, it may be stated that the programme which was conducted in the year 2024 was a litmus test and, to that extent, the petitioners have conducted themselves in a manner which is not detriment to the society. However, Article 19 of the Constitution is never an unilateral right enjoyed by a citizen and is subjected to reasonable restrictions.”

5. After recording the above, the learned Single Bench took note of the date and time when the writ petition was being considered and granted liberty to the writ petitioners for an assembly of 3000 persons to be held at a particular location from 12.00 pm to 4.30 pm on 21.1.2025 who are to follow the route prescribed by the police authorities. In addition thereto, certain conditions were imposed. Thereafter the learned Single Bench has noted the criminal cases which were registered and observed that the persons who are implicated the criminal case will not be allowed to participate physically in the meeting.

6. The learned advocate for the appellants would submit that the names of 20 persons were given by the State which has been referred to by the learned Single Bench.

7. It is no doubt true that at page 11 of the impugned order the names of 20 persons which were furnished by the State was quoted.

8. However, there is no other observation qua those 20 persons.

9. In the next paragraph the learned Single Bench has observed that a list of 10 organisers would be handed over to the police in advance so that in case of any crisis, both the parties may communicate with themselves to dilute the situation. Appropriate direction was issued to the police for deploying adequate Force.

10. The first appellant/political party was directed to ensure that the members, supporters, attending participants to conduct themselves in such a manner as they are responsible citizens and answerable to the citizens of the State for their act and actions.

11. Thus, we find there is no adverse observations made against the leader of the political party or any of those persons and in our view, the restrictions imposed are reasonable restrictions since no person has got a fundamental right to produce in a manner as they wish to do and this is not the scope and ambit of Article 19 of the Constitution. The

interest of the general public is paramount compared to the interest of the political party which wanted to celebrate the foundation day.

12. Thus, we find that there is nothing adverse for the appellants to challenge the impugned order, more particularly even the prayer itself has become infructuous.

13. Accordingly, the appeal is dismissed.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)