

30.04.2025
Suppl List Nos.1-2
Court No.8
(sg/gc/skg)

MAT 645 of 2025
IA No. CAN 1 of 2025

**The Director General & Inspector
General of Police and Ors.**

Vs.

Shankar Bera and Ors.

With

MAT 647 of 2025
IA No. CAN 1 of 2025

State of West Bengal and Ors.

Vs.

Shankar Bera and Ors.

Mr. Kalyan Bandopadhyay, Sr. Adv.,
Mr. Sirsanya Bandopadhyay, Sr. standing Counsel
Mr. Arka Kumar Nag,
Mr. Debopriyo Karan,
... for the Appellants.

Mr. Billawadal Bhattacharyya, Sr. Adv.
Mr. Kaustav Bagchi,
Mr. Anish Kumar Mukherjee,
Mr. Suryaneel Das,
Ms. Megha Datta,
Mr. Tamoghna Pramanick,
Mr. Anish Gupta,
...for the Respondents/writ petitioners.

Mr. Kishore Datta, Ld. Advocate General,
Mr. Swapan Banerjee,
Mr. Sunita Shaw,
Mr. Dipendu Narayan Banerjee,
Mr. Soumen Chatterjee
...for the State.

1. The urgency being shown, leave was granted in the morning to file the present appeals along with the connected applications for being listed in the supplementary cause list at 1.00 p.m.

2. The learned Advocates for the parties are present.
3. Mr. Kalyan Bandyopadhyay, learned Senior Counsel appearing on behalf of the Director General and Inspector General of Police and others has submitted that the learned Single Judge has not dealt with the issues raised during the hearing of the writ petition. The learned Single Judge has completely misdirected its mind in considering the order of rejection for the prayer of permission to hold congregation. The writ petition was politically motivated. Earlier, a Trust filed a writ application praying for holding a religious congregation which was ultimately turned out to be a complete abuse of the process of law as the President of the said Trust had clearly stated before the learned Single Judge that he had not signed the Vakalatnama or never intended to file the writ application. The present writ petitioners are now trying to organize the self-same thing. It has political colour and overtone. Uncharitable remarks have been made by the learned Single Judge in dealing with the order passed by the Inspector-in-Charge, Contai Police Station, Purba Medinipur in relation to the

representation of the writ petitioners on 22nd April, 2025 regarding holding of Maha Sanatani Dharma Sammelan on 30th April, 2025 from 7.00 a.m. to 8.00 p.m. It is submitted that the State Government has allowed religious organizations to continue with their festivals on 30th April, 2025 as traditionally they used to hold such festival on this particular day. Admittedly, the petitioner for the first time wanted to hold such Sammelan on 30th April, 2025 knowing-fully well that inauguration ceremony of Sri Jaggannath Temple at Digha, Purba Medinipur would be held in presence of the Hon'ble Chief Minister, West Bengal along with other dignitaries and VIPs on that date. The said programme was announced on 11th December, 2024. Moreover, Nachinda Sitala Mandir under the Marichda P.S. like every year would also organize festivals on the day of Akshay Tritia in which around one lakh devotees are expected to participate. It is submitted that State has no objection for the writ petitioners to hold such programme on different day but having regard to the fact that the prescheduled programme from the month of December, 2024 has already been

announced along with another gathering as mentioned above, the police administration would be under tremendous pressure and it would be humanly impossible to handle such gathering considering the ground reality of a vast human participation in the district of Purba Medinipur on that particular date. It is submitted that the writ petitioners under the garb of religious programme is in effect holding a political programme and there are enough evidence available with the administration.

4. Mr. Bandyopadhyay has submitted that it has been judicially recognized and well-settled principle that the constitutional courts should be extremely chary in interfering with matters relating to law and order as it is primarily within the domain of the administrative authorities to take a decision in this regard. They are the best to assess and handle the situation depending upon the peculiar needs and necessities within their special knowledge. Mr. Bandopadhyay, in this regard has relied upon the decision of the Hon'ble Supreme Court in ***State of Karnataka & Anr. Vs. Dr. Praveen Bhai Thogadia*** reported at ***(2004) 4 SCC 684 Paragraph 6.***

The reference to the Leader of the Opposition in the order of Inspector-in-Charge, Contai P.S. cannot be completely disregarded. This programme is in effect a programme organized by the Leader of the Opposition.

5. Mr. Kishore Datta, learned Advocate General appearing for the State has submitted that this petition ought to have been rejected as it is a clear abuse of the process of law. It is submitted that initially one Rameshwar Bera filed a writ petition being WPA 8819 of 2025 on the basis of a representation dated 19th March, 2025 for holding Maha Sanatani Dharma Sammelan on 30th April, 2025 from 7.00 a.m. to 8.00 p.m. at Contai Railway Station Math. In the said representation, he informed the administration that approximately 50,000 persons are expected to gather and participate in the programme.
6. The said prayer was rejected on 17th April, 2025 following which a writ petition was filed on 19th April, 2025 being WPA 8819 of 2025. In the said writ petition on 22nd April, 2025, submission was made on behalf of Rameshwar Bera that he has not preferred the writ petition before this Court and none of the signatures appearing in the writ petition has

been signed by him. Thereafter, on 22nd April, 2025, the present writ petitioners sent an intimation to the Superintendent of Police, Purba Medinipur for holding similar kind of programme on 30th April, 2025 at the same venue. The administration was informed that in the said Dharma Sammelan of the Hindu followers residing at Contai Lok Sabha Constituency will attend. Without waiting for a response, a writ petition was filed on the following day in which the impugned order was passed. It is submitted that initially on 25th April, 2025, an order was passed by the learned Single Judge directing the police authorities to respond to the said request on or before 28th April, 2025, failing which, it shall be presumed that the Administration would have no objection for the congregation at the place of the writ petitioners.

7. Mr. Advocate General has submitted that on 28th April, 2025, a detailed reasoned order was communicated to the writ petitioners in which the grounds for not granting such permission was clearly spelt out in paragraphs 3 to 8 of the impugned order dated 28th April, 2025 of the Inspector-in-Charge, Contai Police Station, Kanthi, Purba

Medinipur. For better appreciation of the said submission, we set out the said paragraphs:-

“3. In our estimation, it should take around 1000 buses to carry 50,000 people to the said event venue. However, there is no room for parking of so many buses. In no event such buses or any vehicle can be allowed to be parked on the National Highway 116B.

4. Moreover, since 11th December 2024, the Inauguration Ceremony of Shree Jaganath Temple at Digha, Purba Medinipur, has been announced and the Hon'ble Chief Minister of West Bengal, along with other dignitaries and VIPs, are scheduled to be present at Digha, Purba Medinipur for a 3 day Program commencing on and from 28th April 2025 and concluding on 30th April 2025. All the VIPs will attend the above inauguration ceremony programme through only one road i.e. NH-116B.

5. For the dignitaries and participants in the aforesaid inauguration are majorly expected to take the National Highway 116B, from which your desired location is 350 meters away. There is only one major route to your desired location and hence there is a high probability that any congregation at your desired location will jeopardize the traffic movement of not only the VIP's as well as the other devotees who wish to travel to attend the Inauguration Ceremony of Shree Jaganath Temple at Digha, PurbaMedinipur.

6. Furthermore, on 30th April 2025, being Akshay Tritiya, there shall be gathering of around 1 lakh devotees at Nachinda Sitla Mandir under Marishda P. S. and like every

year this year to the Police Authorities in order to facilitate the gathering at NachindaSitala Mandir shall deploy a huge contingent of Police Officers / Personnel's and forces.

7. It is also in our knowledge and we have the videos in our record, that the Leader of Opposition in West Bengal Legislative Assembly, Shri Suvendu Adhikari (MLA, Nandigram, Purba Medinipur), has made public political speeches stating that:-

"As the counter action to the gathering of "jaali Hindus" (fake Hindus) at Inauguration of Shree Jaganath Temple, Digha, we shall gather around 1 lakh "real Hindus" on 30th April 2025 for holding the yagna of the said MahaSanatani Dharma Sammelan." He has further stated that to save Sanatani Hindu Dharma this congregation at your offered venue is necessary. Video of the above mentioned speech is available with us. Therefore, there is reason to believe that the aforesaid event is smoke-screen to congregate a political crowd in the garb of a religious programme and to precipitate the situation and cause traffic as well as law and order problems.

8. Notwithstanding the above, the said event you want to organize is a new event and not a traditional event. Without adequate wherewithal, planning, application at an fag end, impending Inauguration Ceremony of Shree Jaganath Temple at Digha, Purba Medinipur, long subsisting religious ceremony scheduled to be held at Nachinda Sitala Mandir with around 1 Lakh devotees on the same date, possible hindrance to VIP and

public's traffic movement and political undertones created by political leaders, you are not permitted to hold the said event on 30th April 2025.”

8. The learned Single Judge has completely disregarded the reasons furnished by the said Authority and had only relied upon an observation made with regard to the Leader of the Opposition in Paragraph 7 of the said order and made a caustic remark that “it is very disturbing to see the approach of the Inspector-in-Charge, Contai Police Station who must know that political minorities are also citizens of India who are to be treated equally”.
9. Mr. Advocate General is very much critical about the use of expression “political minority” as this might create disharmony between two communities. It also shows a clear disposition of the learned Single Judge in deciding the matter against the State. It is submitted that apart from the fact that the writ petitioners are not traditionally holding this festival, the Court cannot brush aside the tremendous administrative inconvenience likely to create by reason of such Sammelan if allowed to be held on 30th April, 2025 by reason of other various festivals being taken

place on the self-same date. It is submitted that the petitioners hold only 9 acres of land and it is impossible for a huge congregation of 50,000 to take place in the said land.

10. Mr. Advocate General submits that even the order passed by the learned Single Judge is inexecutable as it is impossible to monitor as to whether at a given point of time, 3,000 devotees are participating. Moreover, the streets in and around Kolkata is replete with festoons, posters inviting people to attend the said congregation and it is impossible for the five writ petitioners to organize such a mammoth event with water, bio-toilets and other safety measures. It is submitted that in the event anything happened during the said Sammelan, the State would be held responsible. It is further submitted that it cannot be also termed as a religious practice to be performed by a particular community. Organizing the programme and the purpose for which it has been represented are never an essential part of the practice of the religion. It is submitted that at this stage the Court is required to find out the reasonableness of the finding and when the finding is found to be rational and reasonably based on evidence in

the sense of all relevant materials as taken into account and no irrelevant material has been influenced a decision and a reasonably minded person on the basis of the said material could have arrived at the said conclusion simply because the Court on the same set of facts feel that another view was possible should not upset the decision of the administration. It is incumbent upon the Court to consider that law and order is the State subject and having regard to the fact that the said decision of the Administration not to grant permission are not based on extraneous consideration.

11. Mr. Billwadal Bhattacharyya, learned Senior Counsel, appearing on behalf of the writ petitioners has submitted that these writ petitioners are the owners of the lands for which the religious congregation is scheduled to be held and presently going on by reason of the order passed by the learned Single Judge. Initially, the Trust wanted to have the congregation which was declined by the Administration in its communication dated 17th April, 2025. Thereafter, the Trust filed a writ petition. However, when it appears to the present writ petitioners that because of inter

se dispute between members of the Trust, such religious congregation is not happening, an intimation was sent on 22nd April, 2025 that a sammelan would be held with the people residing within the Contai Lok Sabha Constituency. However, the writ petitioners apprehended that in view of the rejection of the permission on 17th April, 2025 in connection with the application by the Trust dated 19th March, 2025, the writ petitioners may not be allowed to proceed with the congregation. It was on such anticipation, the writ petition was filed in which Administration has filed a report dated 28th April, 2025. It is submitted that the events as conceived by the Trust are different from event which has been proposed by the writ petitioners. Moreover, the instances for which the permission was denied are factually incorrect as the venue of petitioners is situated at least 13 kilometers away from the Nachinda Temple and 35 kilometers away from Sri Jagannath Temple, Digha. Moreover, the said venue is not on the National Highway i.e. NH 116 B and none of the entry and exit points are on the highway. In fact, on 25th April, 2025 during the hearing, it was categorically submitted on

behalf of the writ petitioners that the writ petitioners are ready and willing to keep the gathering restricted at the venue at a time to 5000 people. Moreover, the questions on 1,000 busses to carry 50,000 people to the event venue does not arise owing to the fact that in the intimation letter it has been categorically stated that the Hindus from Contai will be attending the said Drama Sammelan and most of them will arrive by walking or will be using rickshaws, totos and of like vehicles. It is submitted in the supplementary affidavit filed, the writ petitioners have disclosed the arrangements made at the venue which includes drinking facilities, sufficient number of soundless D.G. sets with environmental compliance for operating air circulators, coolers, light.

12. It is further submitted that there are around 8 entry and exit points to the venue and none of them are on NH 116-B and/or Contai Bypass Road. It was organized on at the private land of the writ petitioners.
13. Mr. Bhattacharyya has submitted that the refusal on the basis of the alleged speech of the leader of the opposition could not have been the basis for denying such congregation.

The said communication dated 28th April, 2025 would show that the Administration has lost impartiality and converting themselves towards a political entity. Moreover, in terms of Section 30 of the Police Act read with Regulation 135 of the Bengal Police Regulations, the IC was not competent to consider or reject the said application.

14. In the aforesaid background we are required to consider the legality and validity of the order passed by the learned Single Judge.
15. The Administration was aware of such event likely to take place on 30th April, 2025 as disclosed in the communication on 19th March, 2025 but rejected such permission on 17th April, 2025 in its communication to the Trust. Thereafter, the writ petitioners proposed to hold such programme on its own land. Having regard to the details furnished by the writ petitioners, grounds for such refusal does not appear to be valid and a genuine consideration of the application for denying permission. There cannot be any doubt that the freedom to act and practice religion can be subject to regulations but such regulation should not clearly violate the

constitutional right of a religious sect to perform their religious rights.

16. A mere disturbance of law and order leading to disorder is not one which affects “public order” as held in ***Manohar Lohia (Dr.) v. State of Bihar*** reported at ***AIR 1966 SC 740***. The contravention of law to affect public order must affect the community or the public at large. The authority concerned has not taken into consideration that the event would hold on a private land having 8 exit and entry points and not on the National Highway or Contain Bypass. The congregation was reduced to 5,000 and further stands reduced to 3,000 at a fixed point of time with all facilities and amenities available for the devotees to arrive and participate in the rituals. In order to deny such right, the authority is required to take into consideration the past conduct and antecedents of a person or group or an organization and on the basis of such assessment, it is possible for the Administration to come to a conclusion or having a reasonable expectation of possible turn of events which may result in disturbance of law and order in and around

that place. This subjective satisfaction would depend upon the facts and circumstances of this case. We have briefly narrated the facts and descriptions of the venue at which the congregation is likely to take place to show that the aforesaid considerations were absent while taking a decision. Apart from this a serious question of jurisdiction of the authorities concerned to deny such permission remains.

17. While the learned Advocate General had referred to the remarks of the observation of the learned Single Judge with “political minority”, we would read the said words in the context of annulling a religious community to perform its religious rights or to hold religious function and merely because a political person may participate in the said congregation would not necessarily vitiate the said congregation. It means participation of a person belonged to the opposition party in the assembly. It should not be merely on the basis of the participation of a leader or representative of the party having any political difference with the party in dispensation an opinion can be formed to deny permission. There cannot be any doubt that in considering

the representation the decision arrived at may involve to some extent an element of subjectivity and as mentioned above past conduct and antecedents of a person or groups or an organization may be a relevant consideration. As observed in **Dr. Praveen Bhai Thogadi** (Supra), is reproduced hereinbelow:-

“6. No person, however big he may assume or claim to be, should be allowed, irrespective of the position he may assume or claim to hold in public life, to either act in a manner or make speeches which would destroy secularism recognised by the Constitution of India. Secularism is not to be confused with communal or religious concepts of an individual or a group of persons. It means that the State should have no religion of its own and no one could proclaim to make the State have one such or endeavour to create a theocratic State. Persons belonging to different religions live throughout the length and breadth of the country. Each person, whatever be his religion, must get an assurance from the State that he has the protection of law freely to profess, practise and propagate his religion and freedom of conscience. Otherwise, the rule of law will become replaced by individual perceptions of one's own presumptions of good social order. Therefore, whenever the authorities concerned in charge of law and order find that a person's speeches or actions are likely to trigger communal antagonism and hatred resulting in fissiparous tendencies

gaining foothold, undermining and affecting communal harmony, prohibitory orders need necessarily to be passed, to effectively avert such untoward happenings.”

18. In the instant case, the application of the petitioner has to be considered as it stands without bringing any reference to any alleged speech by the leader of the opposition. The leader of the opposition is not a party to this proceeding. The veracity of such alleged speech is yet to be ascertained. The writ petitioners have not made any speech which would likely to cause any disharmony or public disorder. We have been informed that 20 volunteers have been engaged and no adverse report affecting the law and order situation by reason of such congregation has so far been reported. Photographs of monks participating on the congregation has been disclosed.
19. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge. However, we agree with the learned Advocate General that the Court, while passing order should keep in mind that the said order is capable of being executed. Adequate measures or safeguards are necessary for ensuring that 3000 people

at a turn can only participate. It may not be possible for the Administration to ensure strict compliance. It all depends upon the number of the persons likely to be present at the time of congregation. However, having regard to the fact that the event had taken place and we have been informed at the conclusion of the hearing that the event is at the closing stage, we are not interfering with the direction with regard to number of participants at a turn to be present at the venue.

20. With the aforesaid observation, the appeals and the applications are disposed of.
21. However, there shall be no order as to costs.
22. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Soumen Sen, J.)

(Smita Das De, J.)