

25.03.2026
Sl. No.54
tkm

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

W. P. A. 490 of 2026

[Milan Thapa -Vs- State of West Bengal & Ors.]

Mr. Sudipto Kumar Majumdar, Sr. Adv.
Mr. Urgan Lama
Mr. Shubhankar Dutta
Mr. Sudip Kr. Paul
Mr. Mayank Bhandari
Mr. Sourav Kar
Ms. Somdutta Patra
Ms. Swagata Mitra
... .. for the petitioner

Mr. Joyjit Chaudhury, Ld. AAG
Ms. Bedashruti Bose
Ms. Kanika Saha Sarkar
... for the State

1. The petitioner has preferred the present writ petition, seeking a direction upon respondent nos. 2, 3 and 4 to grant permission to hold a religious *Padayatra*/procession from Kurseong town to Mahakal Baba Dham, Darjeeling via National Highway 110/Hill Cart Road on the auspicious occasion of Ram Navami.
2. Mr. Majumdar, learned senior counsel for the petitioner submits that the petitioner is the President of Sri Ram Navami Mahatsav Samity, Darjeeling and intends to organize a religious *Padayatra*/procession as part of the celebration of Ram Navami. Learned senior counsel further submits that the petitioner has duly applied before

the competent authority seeking permission. However, by communications dated 20.03.2026 and 21.03.2026 the competent authority had rejected the said request.

3. It is contended that the rejection is arbitrary, mechanical and violative of petitioner's fundamental right guaranteed under Article 19(1)(B) and 25 of the Constitution of India.
4. Learned Additional Advocate General submits that the rejection was based on consideration, such as traffic congestion, narrow road conditions, public inconvenience and administrative constraints particularly in view of the prevailing circumstances in the State of West Bengal.
5. This Court has heard the submissions advanced by both the parties and the materials placed on record. It is well settled that the right to assemble peacefully and to practice religion is a fundamental right subject to reasonable restrictions and the interest of public order and safety.
6. Upon perusal of the impugned communication, this Court finds that while the State respondents have cited various administrative and logistical reasons and concerns, the decision reflects a blanket rejection of the petitioner's request without adequately considering whether such concerns

would be imposed by imposing reasonable regulatory conditions.

7. The power vested upon the authorities is not to prohibit in all circumstances but to regulate the exercise of such rights in a manner that balances individual freedom and public interest.
8. In our opinion, the impugned communication/rejection orders do not reflect such a balance exercise of discretion. There is no indication that the authorities explored the feasibility of granting conditional permission by modifying the route and/or restricting the number of participants and/or regulating the time and/or imposing other safeguards to mitigate the concerns expressed.
9. In such circumstances, the impugned communications dated 20.03.2026 and 21.03.2026 respectively cannot be sustained and are liable to be set aside.
10. Accordingly, the said communications are hereby quashed.
11. At this stage learned senior counsel for the petitioner submits that the initial proposal which stands quashed is modified and that the petitioner will submit a list of 20 persons who would be participating in the *Padayatra*/procession by foot from St. Mary, Kurseong Town to Mahakal Baba

Dham, Darjeeling. In addition, learned senior counsel further submits that in the preceding years, two similar processions had been carried out wherein the permission had been accorded from Shree Bari Thakurbari Mandir (near Sadar Thana) via Town Office – Chowk Bazar – Judge Bazar – Laden-la Road – Neharu Road – Chowrasta till Mahakal Mandir, Darjeeling.

12. This year, learned senior counsel for the petitioner submits that they will be carrying out the *Padayatra*/procession from Darjeeling Railway Station to Mahakal Baba Dham, Darjeeling.
13. Learned Additional Advocate General submits that the concerned authority will consider the application of the petitioner positively since in the preceding years also they have been granted permission from Shree Bari Thakurbari Mandir (near Sadar Thana) to Mahakal Baba Dham, Darjeeling. He further submits that there shall not be any problem in granting the permission since this year the route is rather being shortened.
14. The petitioner is directed to make a comprehensive representation to the concerned authority by today (25.03.2026), which shall be considered by the concerned authority positively by tomorrow (26.03.2026).

15. With the aforesaid directions, the present writ petition is disposed of.
16. Since no affidavit-in-opposition has been called for, the allegations made in the writ petition shall be deemed to have not been denied.
17. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Gaurang Kanth, J.)