

27
27.02.2024
ssi
Ct. 238

WPA 5376 of 2024

Sri Pranoy Roy
-vs-
The State of West Bengal & ors.

Mr. Soumya Majumdar
Mr. Srijib Chakraborty
Mr. Kaustav Ch. Das
Ms. Rini Bhattacharyya
Mr. Lokenath Chatterjee
Mr. Atanu Basu

...for the petitioner

Mr. Kishore Dutta, Ld. A.G.
Mr. Biswabrata Basu Mallick
Mr. Debangshu Dinda

...for the State

The petitioner describes himself as the Office Secretary of West Bengal Bharatiya Janata Party.

By a letter dated February 24, 2024 (wrongly typed as March 24, 2023), the petitioner intimated the Joint Commissioner of Police, Head Quarters, Kolkata regarding a sit-in-demonstration at the statue of Mahtma Gandhi in Kolkata Maidan on 26.02.2024, 27.02.2024 and 28.02.2024 from 10 a.m. to 6 p.m.

The petitioner has also obtained a permission from Lieutenant Colonel, Head Quarter Bengal, Sub Area for the said programme. The Joint Commissioner of Police, Kolkata, however, by a letter dated 25.02.2024 denied the permission. Relevant part of the said order is quoted below:

“ With reference to the above, this is to inform that your schedule programme cannot be allowed in view of the prohibitory order vide. no. 301/EN/T-IV-6/01/2022 dated 24.02.2022 issued by the Department of Environment, Government of West Bengal on use of microphone and loudspeakers during Secondary and Higher Secondary examinations conducted by a recognized Educational Board or Council in compliance with the order of Hon’ble High Court, Calcutta dated 11.08.1998 passed in C.O. No. 4303 (W) of 1995, and in the interest of a smooth conduct of examinations.

Simultaneously, groups of job aspirants are continuing their sit-in demonstration at the same venue under order of the Hon’ble High Court, Calcutta and allowing such programme at the same and identical venue may create law & order problem.

Moreover, the preferred venue does not have the capacity to accommodate 3000 (three thousands) strength.

Since the programme is scheduled in the park hours, there is every possibility of traffic congestion and public inconvenience to general public and students appearing in various examinations.

Hence, the permission for conducting your programme is denied.”

Mr. Majumdar, learned advocate appearing for the petitioner submits that there is no school or college within the vicinity of the area. Therefore, causing disturbance to the higher secondary examination candidates is not a concern. He also submits that number of demonstrators will be restricted to 150.

Needless to mention that right to assemble peaceably, freedom to speech and expression are guaranteed under Article 19 of the Constitution of India. Such rights, however, may be subject to reasonable restrictions imposed by the

State.

In view of respective stand of both parties, to strike a balance, I dispose of the writ petition with the following directions:

- (i) The Bharatiya Janata Party, West Bengal Unit, will be permitted to hold the sit-in demonstration on 28.02.2024 and 29.02.2024 at the statue of Mahtma Gandhi in Kolkata Maidan.
- (ii) The demonstrator shall not be permitted to use any loudspeaker.
- (iii) The number of demonstrators should be restricted within 150.
- (iv) The petitioner shall ensure that no unlawful activity takes place during the demonstration.
- (v) The participants in such demonstrations shall act in a manner that ensures no damage to public property, assault on any government servant or any other transgressions of law.
- (vi) The demonstrations shall be conducted between 10 a.m. to 6 p.m.
- (vii) The participants in such demonstrations shall impede the flow of traffic or cause any inconvenient to pedestrians.

With the aforesaid observations, **WPA 5376 of 2024** is disposed of.

Mr. Kishore Dutta, learned senior advocate, prays for a stay of the order.

Such prayer is considered and rejected.

All parties shall act on the server copy of this order duly obtained from the official website of this Court.

(Kausik Chanda, J.)