

WPA 24852 of 2024

**Joint Platform of Doctors & Anr.
Vs.
State of West Bengal & Ors.**

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Sujit Mitra
Mr. Srinjoy Sengupta
Mr. Arup Bhattacharya
Mr. Samim Ahamed
Mr. Aitabha Ghosh
Mr. Tapas Maity
Mr. Rajit Lal Mitra
Mr. Siuddhartha Sankar Mondal
Mr. Sabyasachi Chatterjee
Mr. Sattavick Majumder
Mr. Arnab Sinha
Mr. Syed Chandan Hussain
Mr. Arka Maiti
Mr. P. Baidya
Ms. Saloni Bhattacharya
Ms. Anjana Mehboob
Mr. Nazibuddin Siddiqui
Mr. Aniruddh Singh
Ms. Gulsanwara Pervin
Ms. Ambiya Khatun
Mr. Arka Ranjan Bhattacharya
Mr. Enamul Islam
Ms. Nabanita Chatterjee
Ms. Arpita Dhar
Mr. Amartya Basu
Mr. Arghya Banerjee
Mr. Shiladitya Rakshit

... .. for the petitioners

Mr. Kishore Dutta, AG
Mr. Amitesh Banerjee, SSC
Mr. Debangshu Dinda

... .. for the State

Affidavit of service filed by the petitioners in Court
be kept with the record.

Mr. Bhattacharya, learned senior counsel
appearing for the petitioners submit that the
petitioner No. 1 is an umbrella organization of

Association of Health Service Doctors, West Bengal and the petitioner No. 2 is a member of the petitioner No. 1 as well as a doctor practicing in the State of West Bengal. The Petitioners made a representation before the Commissioner of Police, Kolkata on 26th September, 2024 for a permission to organize a rally from College Square to Rabindra Sadan from 05:00 p.m. to 08:00 p.m. to protest against the assault on a lady doctor at R.G. Kar Medical College while she was on duty. In the reply to such application, the Joint Commissioner of Police, HQ by way of an e-mail on 29th September, 2024 informed the petitioner No.1 that *“With reference to your letter dated 27.09.2024 regarding rally on 01.10.2024 from College Square to Rabindra Sadan during 17.00 hrs to 20.00 hrs with 50,000 (fifty thousand) participants, this is to inform that neither the starting point nor the culminating point of your programme is sufficient enough to accommodate 50000 (fifty thousand). Moreover, it will cause severe traffic congestion and inconvenience to general public at large as it is a working day. It is also mentionworthy that there are several Hospitals, Educational Hub situated at your proposed route. Moreover, you have submitted list of 10 (ten) Volunteers who are supposed to*

control/regulate 50,000 (fifty thousand) participants which is very much insufficient. Details of number of vehicle are yet to be received from your end.

In view of the above, this is to inform that you are allowed to hold your proposed programme with 1000 participants and sufficient number of volunteers from College Square to Rani Rashmoni Avenue. You are requested to conduct your programme either before 5 p.m. or after 7 p.m. on 01.10.2024 to avoid inconvenience to general public as it is working day”.

Learned senior counsel further submits that the Joint Platform of Doctors is aggrieved not only by the curtailment of time of the rally but also the number of protestors in as much as on 25th September, 2024 an order under Section 163 of BNSS, 2023 has been passed by the Commissioner of Police, Kolkata to prevent large scale disturbances of the public tranquility and breach of the peace in the area which falls under Bowbazar Police Station, Hare Street Police Station and Head Quarters, Traffic Guards which is from K.C. Das crossing towards Victoria House (CESC Head Office) and its vicinity excluding Bentick Street, thereby curtailing the route of the procession as the procession will pass through

the above areas and prays for a direction by this Court for allowing the doctors to have a peaceful rally with protestors whose number cannot be ascertained at this stage.

Learned senior counsel appearing for the petitioners refers to the judgment dated 10th April, 1993 (State of West Bengal & Ors. Vs. Dr. Anindya Gopal Mitra & Ors.) reported in 1993 SCC OnLine Cal 126 and orders dated 24th November, 2023 and 23rd August, 2023 in MAT 2283 of 2023 with I.A. CAN 1 of 2023 (The State of West Bengal & Ors. Vs. Jagannath Chattopadhyay) of the Division Bench of this Hon'ble Court and in WPA 20535 of 2023 (Raj Chowdhury Vs. State of West Bengal & Ors.) of the co-ordinate Bench of this Hon'ble Court respectively, to strengthen his submission that there cannot be any prohibition to rallies/demonstrations that may be held by an organization peacefully.

Mr. Datta, learned Advocate General appearing for the State relies on orders of a Supreme Court Case being Suo Moto Writ (Crl.) No. 2 of 2024 dated 20.08.2024, paragraph no. 2 and order dated 22.08.2024 paragraph no. 9 which are as under:

“2..... we except that the Government of West Bengal shall observe necessary restraint in the face of peaceful protests conducted by any quarter of civil society bearing on the issue which forms the subject matter of the incident which took place at Kolkata. It shall be ensured that the power of the State is not unleashed on peaceful protesters.”

“9.....Mr. Kapil Sibal, senior counsel appearing on behalf of the State of West Bengal and the Kolkata Police submits that while this Court has permitted peaceful protests, the order should not be misconstrued to mean that the authorities are precluded from exercising their regulatory powers in accordance with law. This Court has not injuncted the State from exercising such lawful powers as are entrusted in terms of the law. However, we categorically reaffirm that peaceful protests should not be disturbed or disrupted, and the State shall not take any precipitate action against those who are peacefully protesting against the incident which took place at RG Kar Medical College Hospital.”

Relying on the above orders, learned Advocate General submits that the Supreme Court has not injuncted the State from exercising such power as are entrusted in terms of the law and on the basis of the abovementioned orders, restrictions are imposed by the Commissioner of Police, Kolkata

considering the safety and security of the citizen at large. Mr. Datta, learned Advocate General further clarifies that the order dated 25th September, 2024 under Section 163 of BNSS 2023, is only for a stretch of road which is 100 meters long and starts from K.C. Das crossing and ends at Victoria House (CESC Head Office).

Mr. Datta, relies on Supreme Court judgments dated 23rd February, 2012 [Ramlila Maidan Incident, In Re Suo Motu W.P. (Crl.) No. 122 of 2011] reported in (2012) 5 SCC 1, 23rd July, 2018 (Mazdoor Kisan Shakti Sangathan Vs. Union of India and Anr.) reported in (2018) 17 SCC 324, 15th September, 1972 (Himat Lal K. Shah Vs. Commissioner of Police, Ahmedabad and Anr.) reported in (1973) 1 SCC 227 and 7th October, 2020 (Amit Sahni Vs. Commissioner of Police and Ors.) reported in (2020) 10 SCC 439 and submits that the State has adequate power to restrict and regulate rallies, dharnas, demonstrations etc.

Heard learned counsels for the parties at length.

The Supreme Court in Suo Moto Writ (Crl) No. 2 of 2024 dated 22.08.2024 held that *“we categorically reaffirm that peaceful protests should not be disturbed or disrupted, and the State shall*

not take any precipitate action against those who are peacefully protesting against the incident which took place at RG Kar Medical College Hospital.”

This Court has taken judicial notice of the fact that there have been numerous occurrences of processions, rallies, meetings and similar events held at regular intervals in the State of West Bengal and more particularly in Kolkata.

It was held by a co-ordinate Bench of this Court in The State of West Bengal and Ors. Vs. Jagannath Chattopadhyay in MAT No. 2283 of 2023 with I.A. CAN 1 of 2023 that there should be a level playing field for all political parties for holding public rallies, gatherings, meetings and the law and order has to be looked into by the State. It was further held in a judgment of our co- ordinate Bench reported in **2017 SCC OnLine Cal 1914 (Sasanka Sekhar Dey & Ors. Vs. State of West Bengal & Ors.)** that:-

“11.....If the assemblage of invitees to the function is not for an unlawful, purpose (which is not the case of the respondents), then such assemblage at a public place ought not to be restrained until and unless there is an imminent threat to the breach of public order. Even then, the restraint must be just and reasonable

balancing the interest of the individual with that of public safety. It must not only be reasonable but also least invasive and minimal. In Ramlila Maidan Incident, In Re: (2012) 5 SCC 1, the Court held:-

“58 the requirements of existence of sufficient ground and need for immediate prevention or speedy remedy is of prime significance. In this context, the perception of the officer recording the desired/contemplated satisfaction has to be reasonable, least invasive and bona fide. The restraint has to be reasonable and further must be minimal. Such restraint should not be allowed to exceed the constraints of the particular situation either in nature or in duration. The most onerous duty that is cast upon the empowered officer by the legislature is that the perception of threat to public peace and tranquility should be real and not quandary, imaginary or a mere likely possibility.”

In view of the above and in the interest of justice, this Court passes the following directions:

- i) Let the petitioners and their associates hold a peaceful rally on 1st October, 2024 between 5:00 P.M. to 8:00 P.M. The route should be from College Square to Rabindra Sadan via Central Avenue, Esplanade.
- ii) The petitioners shall abide by all the

conditions for holding such rallies. The rally shall not cause any undue obstruction to the public at large.

- iii) The police authorities shall make necessary arrangements for security with good number of personnel so as to ensure that no breach of peace takes place and the rally can move peacefully.
- iv) The organizers of the rally are requested to provide sufficient number of volunteers to control their supporters and ensure that no breach takes place and the rally can move peacefully.
- v) The police arrangements would be made under the supervision of the Joint Commissioner of Police, Head Quarter, Lal Bazar, Kolkata.

The petitioners are requested to communicate this order dated 30.09.2024 to the Joint Commissioner of Police (HQ), Lal Bazar, Kolkata intimating him the name(s) of the person/persons who is/are organising the peaceful rally.

With the above directions, the writ petition being WPA 24852 of 2024 is disposed of.

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

(Rajarshi Bharadwaj, J.)