

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:

The Hon'ble Justice Jay Sengupta.

W.P.A 23781 of 2023

Chandan Kaity

Vs.

The State of West Bengal and others.

With

WPA 23782 of 2023

With

WPA 23784 of 2023

With

WPA 23818 of 2023

For the Petitioners

: Mr. Phiroze Edulji
Ms. Anamika Pandey
Ms. Amrita Pandey
Mr. Manabrandra Bhattacharya
Mr. G. Pandey
Ms. Sneha Singh

For the State

: Mr. S. N. Mukherjee, Ld. AG
Mr. A. Roy
Mr. Samrat Sen
Mr. Amal Kr. Sen
Mr. Sumon Sengupta
Mr. Lal Mohan Basu

Heard on

: 04.10.2023

Judgment on

: 04.10.2023

Jay Sengupta, J:

With the consent of the appearing parties, the connected applications being WPA 23782 of 2023, WPA 23784 of 2023 and WPA 23818 of 2023 are taken up for hearing together.

These are applications under Article 226 of the Constitution of India praying for directions upon the respondent authorities to enable them to go ahead with the Jagran Yatra through the State of West Bengal and to give effect their representations dated 23.09.2023.

Supplementary affidavit filed on behalf of the petitioner is taken on record. Copy of the same has been handed over to the learned counsel for the State.

Mr. Edulji, learned counsel appearing on behalf of the petitioner, submits as follows. The Vishva Hindu Parishad (VHP, for short) and the Bajrang Dal are organizing a nation-wide rally namely, "Shourya Jagran Yatra" to spread awareness about various issues relating to Hinduism. The Yatra also intends to honour the freedom fighters who had laid down their lives for the country. The Yatra will pass through various sites which are of religious and historical importance. The Yatra now intends to pass through West Bengal between 05.10.2023 to 08.10.2023. A maximum number of 200 members of the VHP and the Bajrang Dal intend to participate in the Yatra at a particular point per procession/route. Only three(3) Tata-

407 tracks and about 20 motorbikes will ply in the same, per procession. The Yatra will be a peaceful march. No arms or weapons will be carried by anyone. The only objective of the Yatra is to enlighten the people of West Bengal about the sacrifices made by the freedom fighters that paved the way for an independent Bharat. When the Yatra passes from one district to another, out of 200 participants only 15 will go through. Rest of the 200 participants will come from the following District itself. This way, at no point of time the participants in the Yatra would exceed a total of 200 per procession. When all the processions converge at the Rani Rasmoni Road, there could be gathering of no more than 2000 participants. By an order dated 29.09.2023 passed by a Co-ordinate Bench of this Court in WPA 2382 of 2023, the organizations have been allowed to carry out such Yatras in the four Districts of North Bengal. As far as possible, the petitioner shall videograph the passage of the rally.

Mr. Mukherjee, learned Advocate General representing the State submits as follows. The respondent police authorities had flagged their concerns in their earlier communication. If such Yatra is allowed to take place, the participants have to abide by all norms relating to a peaceful procession like no chanting of provocative slogans, abiding by sound limits regarding use of loudspeaker and the like. Registration numbers of vehicles to be used should be communicated in advance to the respondent authorities along with the names of persons

responsible for carrying out each of such procession. After going through the route that the petitioner had charted out in the supplementary affidavit, one small change was suggested in respect of the route at Howrah. In fact, after discussion held between the organizers and the men of the respondent authorities, they have agreed to organize the Yatra in the route via Andul Road i.e., Betaitala-Hangsang Crossing-Kali Bazar- Mullick Fatak-Howrah Maidan instead of the existing route proposed by the petitioner in this regard. The night halts of the participants would take have also to be intimated. The police authorities shall make adequate arrangements so that the procession can pass peacefully through the areas.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the supplementary affidavit filed.

The people of India, that is Bharat, are a patriotic lot. West Bengal is no exception to this. In fact, the State had immense contribution in the freedom struggle against the British. Therefore, it would be too presumptuous to suppose that rallies would be required to infuse a spirit of patriotism in the people of Bengal.

However, the purpose of the rally is not on test here and the petitioners do have a right to hold such rallies. It would a part of their right to freedom of speech and expression, as guaranteed by our Constitution.

Besides, a Co-ordinate Bench of this Court has also allowed the same organizations to hold similar rallies for certain districts in North Bengal. I find no reason to depart from such view.

In view of the same, the prayer of the petitioners to hold the said “Shourya Jagran Yatra” is allowed, however, subject to certain reasonable restrictions, which are enumerated as under.

For the march through the district of Howrah, the petitioners shall take the other route via Andul Road i.e., Betaitala-Hangsang Crossing-Kali Bazar- Mullick Fatak-Howrah Maidan.

As has been agreed to by the petitioners, at any point of time each rally shall not exceed more than 200 participants except when they converge at Rani Rasmoni Road and except for the Yatra which is to take place in the city of Kolkata. The maximum number of participants anywhere would not exceed 2,000 in any event. When the Yatra passes through one District to another, 15 persons from the rally would continue to be a part of the same while others would come for the next District, the total never exceeding 200 at any point, per procession.

There will be three (3) Tata-407 cars and 20 motor bikes to be used by the participants at each procession. The registration numbers of the Tata-407 cars shall be intimated to the police.

In the rally which is meant for Kolkata, there shall be a maximum of four (4) matadors, and ten (10) Tata -407 cars and thirty

(30) motorcycles. The registration numbers of the cars and the matadors shall be provided to the respondent police authorities.

No provocative slogans or abusive language shall be used by the participants. No one will hurt the religious sentiments of any other community.

If loudspeakers are used, the prescribed sound limits are to be adhered to.

No weapons will be carried by any of the participants.

The participants shall use the State highways while travelling. At any point, the participants shall not occupy more than half of a road. The halt locations shall also be intimated in advance to the respondent authorities.

If there is any last minute minor change in these arrangements, the same shall be intimated to the respondent authorities immediately.

The respondent authorities, on the other hand, shall make adequate police arrangements in every District for the smooth passage of the Jagran Yatra. There will be armed police to facilitate the passage of the Jagran Yatra. The police authorities shall see to it that no harm is done either to the participants or to the passersby. The police arrangement shall be made under the superintendence of the respective Superintendent of Police/Commissioner/Joint Commissioner.

The police authorities, while maintaining peace, shall not act as mute spectators and shall manage the situation in a proactive manner.

If the police come to know about any disturbance in a particular area, they shall immediately intimate the participants about the same, suggest alternative routes and take necessary measures.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta,J.)