
(2000) 08 PAT CK 0036
In the Patna High Court
Case No : C.W.J.C. No. 1813 of 1999

Nalanda Zila Puja Utsav Samiti

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 16-08-2000

Acts Referred:

Citation : (2001) 1 PLJR 23

Hon'ble Judges : Ravi S. Dhavan, C.J.;Aftab Alam, J

Bench : Division Bench

Advocate : Swapna Sarkar, Laxmi Narayan and Ranjit Sharan, for the Appellant;
Alamdard Hussain, for the Respondent

Final Decision : Dismissed

Judgement

Ravi S. Dhavan, C.J.—This matter has been filed as a Public Interest Litigation. From the resume of proceedings, it is clear that the pressure is built up to have this matter considered when the season arises. It is not that the petition was not being chased on the dates when it came up before the Court. These dates were; 26 March 1999, 9 April 1999, 10 May 1999, 4 November 1999 and 10 April 2000 when a request was made to the Court that it be listed alongwith another writ petition. Now the matter has come up today.

2. All the urgency and the importance of the matter pressed upon the Court to issue directions to the State Respondents, appears to have either disappeared or difused.

3. Despite the matter having been called twice no one has attended the case. Ordinarily, this petition should be dismissed for want of prosecution. But, the issues, as are raised and the Court is called upon to consider such matters as a Public Interest Litigation leaves the Court with no option but to consign the record with its comments.

4. Alongwith the petition are appended certain newspaper clippings on which the case has been built up. The issues presented are that there comes a season

every year when communities, in the present case the Hindu Community, participate in the immersion ceremony of idols. Whenever, such an occasion arises, there is a procession which passes through the town of Biharsharif.

5. The relief sought on the petition, filed on behalf of an organisation calling itself the Nalanda Zila Puja Utsav Samiti, is that the State-Respondents, that is the district administration, be restrained from changing or diverting the routes of the procession carrying the idols for immersion on Saraswati Puja, Ram Navami, Ganesh Puja, Durga Puja and Laxmi Puja. This in itself, as narrated in the petition, makes it clear that the petition is for all persuing professed religious rites of a community throughout the year.

6. The contention is that the customary routes be not deviated from and the routes ought to be, as has been customarily used and assigned to the community. Any change in the route, it is contended, will amount to an "illegality" and "unconstitutionality". It is contended that this petition is by the Hindu Community. In addition it is contended that in similar manner the Muslim residents of the town of Biharsharif also perform their religious festivals at Muharram, Chadar Procession to Dargah etc. This changed or revised route from the customary route, the Petitioner says violates the constitutional right of the citizen.

7. Not to be ignored is the aspect that the Petitioner also has a grievance that while the routes are being monitored by the district administration for facilitating the procession, the barricades, which are put up, otherwise, for the safety of the residents on either flanks of the road and the crowd as onlookers is an unauthorised barricading.

8. There is total contradictions in the case which has been brought by the Petitioner. On the one hand, it is desired that the customary route should be assigned for the procession and simultaneously it is contended that there ought to be no barricading while the procession is on as the barricading harms and inconveniences the residents of the affected locality and makes it difficult for them to have ingress and egress from their houses. The barricading part is a preventing measure to keep the procession and the onlookers seperate. Not to have it is trouble. It appears, the Petitioner wants trouble as an exitement.

9. Of any route, which is being claimed, constitutionally or otherwise, could at best be a right to freedom to move freely in furtherance of either custom or religion. Every right, which has been guaranteed under the Constitution, comes with a corresponding obligation, for there is no right worth fighting for without an obligation well performed. The Petitioner, apparently, forgets that any right which guaranteed even the right to freedom of religion is subject to public order, morality and health and other reservation in the Constitution, which permits the State to impose reasonable restrictions for the maintenance of public law and order.

10. The very fact that a procession passes and the Petitioner desires that the

route ought not to be deviated puts an obligation on the district administration to barricade the route for public order and public safety. If during certain times it so warrants that a customary route needs to be changed, then, the law obliges the district administration to be the best assessors of the situation and make necessary changes so that public law and order is controlled.

11. There is no occasion for the Petitioner to seek any writ from the High Court as of right that it must have the route on which it has intended to take out the procession regardless of any assessment of law and order situation by the administration. The administration would be entitled to modulate the route as and when the situation arises. All the communities are expected to be flexible. Such processions are not meant to intimidate those communities who may not join in but would be onlookers to watch and live in harmony.

12. This was an ill-advised petition. Accordingly, it is dismissed.

Aftab Alam, J.

13. I agree.