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**(2009) 10 CAL CK 0021**  
**In the Calcutta High Court**  
**Case No : T No. 59 of 2009**

Sukriti Dutta

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision :** 13-10-2009

**Acts Referred:**

**Citation :** (2009) 10 CAL CK 0021

**Hon'ble Judges :** Biswanath Somadder, J

**Bench :** Single Bench

**Advocate :** Kashi Kanta Moitra and Shyamal Chakraborty, for the Appellant;  
Ashim Kr. Chatterjee and Suman Ghosh, for the Respondent

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## **Judgement**

Biswanath Somadder, J.—The instant writ petition has been filed by one Sukriti Dutta, claiming himself to be the General Secretary of the Naba Jubak Sangha, a Puja Committee/Club/Association of 69, Sitaram Ghosh Street, P.S. Amherst Street, Kolkata-700009, as described in the cause-title.

2. The immediate cause of the writ petitioner for approaching the writ Court are two notices; one dated 5th October, 2009 from the Officer-in-Charge of the Amherst Street Police Station addressed to Sri Bikash Bhattacharjee, President of the Naba Jubak Sangha Kali Puja Committee and another dated 8th October 2009 from the Officer-in-Charge, West Bengal Fire and Emergency Services, Central Avenue Fire Station, addressed to the Secretary of Naba Jubak Sangha.

3. Learned Senior Counsel appearing on behalf of the writ petitioner submits that Naba Jubak Sangha is an old and established Puja Committee which is organizing Kali Puja for fifty one long years. This year would be its fifty second year. Learned Senior Counsel has also submitted that the place of the pandal where Goddess Kali is established, is scheduled and fixed and such process is going on unchanged for the last fifty one years.

4. Referring to the averments made in the writ petition he further submits that this Puja Committee organizing the Kali Puja has been taken all sorts of care and

caution so that the Puja Pandal does not cause any harm and/or impediment to the local people and also facilitate their free ingress and egress which includes operation of emergency cars, vans, vehicles etc. In this context he submits that all along this Puja Committee has been adopting all possible measures so that the rules and regulations as framed by the Kolkata Police and West Bengal Fire Service Department from time to time are maintained and adhered to.

5. So far as the notice dated 5th October 2009 is concerned, learned Senior Counsel submits that the Officer-in-Charge of the Amherst Street Police Station has not given any specific details as to the exact extent the Puja Committee has not complied with the directions and guidelines contained in an order of Court referred therein, being an order passed by this High Court on 15th September 2009 in W.P. No. 856 of 2009 (Ishita Chakraborty v. State of West Bengal and Ors.). He further submits that the other notice, being notice dated 8th October 2009, from the Officer-in- Charge of the West Bengal Fire and Emergency Services, is also equally vague since the only point that has been brought to the notice of the Secretary of Naba Jubak Sangha is that a 4 ft. clear open space is not maintained in all sides. He submits that even in the notice dated 8th October 2009 there is a reference to the aforementioned order of the High Court. He submits that the two notices are vague and devoid of specific particulars and cannot stand the scrutiny of this Court, sitting in its high prerogative writ jurisdiction, and are thus liable to be set aside. He further submits that all along this particular puja committee has been adhering as well as conforming to all guidelines and regulations issued by the State and other statutory authorities. He also submits that there is no significant deviation, if at all there be any, in respect of the four feet clear open space required to be maintained in all sides as indicated in the notice dated 8th October, 2009. Finally, he submits that with Kali Puja round the corner, i.e., on 17th October, 2009, it may not be practically possible to demolish the Puja pandal structure in its entirety and rebuild it within such a short period of time and therefore, keeping in view of its past track record, the puja committee may be allowed to hold the Kali Puja this year as has been done over the last 51 years.

6. The learned advocate-on-record of the State of West Bengal, on the other hand, at the outset, submits that the notices issued to the office bearers of Naba Jubak Sangha Kali Puja Committee have not been issued on the basis of any private complaint, but were wholly based on the judgment and order of this Court as mentioned above. Learned advocate for the State of West Bengal places reliance on the judgment and order of this Court dated 15th September, 2009 passed in W.P. No. 856 of 2009 (Ishita Chakraborty v. State of West Bengal and Ors.) extensively and submits that it would be clear from said judgment that a four feet space is required to be maintained on all sides of the puja pandal. However, he candidly submits that he is unable to point out specifically as to the exact extent of deviation of the guidelines for maintenance of four feet space on all sides, if there be any, so far as the instant puja pandal is concerned.

7. After considering the respective submissions of the parties and upon perusing the writ petition as well as the abovementioned judgment and order dated 15th September, 2009 passed by this Court, it appears that there is no manner of doubt that this particular puja committee is hosting the Kali Puja for the last 51 years, upon obtaining all necessary statutory clearances from various State authorities. It is also clear from the submissions of the learned advocate for the State that the notices dated 5th October, 2009 and 8th October, 2009 have not been issued upon any complaint made by any private individual.

8. Upon perusing the judgment and order dated 15th September, 2009 passed by the High Court in W.P. No. 856 of 2009 it appears that the Court had, in that case, called for a report from the State wherefrom it appeared that there was already a system in place as to the conditions for constructing pandals by puja committees. This report spoke of uniform rules which have been put in place which the State proposed to implement without exception. One of the rules includes a direction of keeping a four feet clear open space on all sides from the property line of any building, boundary wall or any other permanent structure. The rules also indicate that the height of the super-structure could not be more than forty feet. Certain other directions relating to materials to be used for construction of the pandals and for maintenance of separate entrance and exit gates were also indicated in the report. The report also indicated that the directions required the entry passage in the pandal to be such that a fire engine could get access without any obstruction. No open flame could be used within 200 yards of the main pandal and no cooking arrangements would be allowed within such radius. In addition, adequate quantity of water, sand-filled buckets were required to be maintained. From the said order dated 15th September, 2009 it further appears that the report was called for by this Court at the instance of a writ petitioner who complained of a puja-pandal not adhering to the directions issued by the Director General of West Bengal, Fire and Emergency Services. It further appears from the order dated 15th September, 2009 that the writ petitioner in that case had complained that bamboo poles had been extended in such a manner that after that writ proceeding was over it would leave room for the private respondents therein to make further construction of the puja-pandal and breach the four feet gap that is now required to be maintained. It is thus clear that the order dated 15th September, 2009 was passed not in a public interest litigation, but on the basis of a report which was sought for by the writ court from the State at the instance of an individual writ petitioner who had complained of a particular puja committee not adhering to the guidelines set by the State authorities which resulted in bamboo poles being extended in such a manner by that puja committee which left room for that puja committee to make further construction after that writ proceeding was over whereby the four feet gap that was required to be maintained would eventually breach.

9. The facts of the instant case, as narrated before, are quite different. The action has not been initiated by any private individual complaining of the puja

committee flouting the guidelines issued by the State authorities. There is no specific detail, either in the notice dated 5th October, 2009 or in the notice dated 8th October, 2009, indicating as to the exact extent of non-maintenance of four feet clear open space on all sides. It is pertinent to observe at this stage that the learned advocate for the State, during the course of hearing, had submitted that much more than four feet space is being maintained in the front as well as in the back of the puja pandal-in-question.

10. Keeping this aspect of the matter in mind and taking into consideration the fact that it is no one's case that there has been any significant deviation from the guidelines with regard to the space required to be maintained all around the puja-pandal, as was being maintained over the last several years, and in the absence of any specific complaint, either by an individual or a group of persons, I am of the view that, at this belated stage, a pragmatic and practical approach ought to be taken by the State authorities without, of course, majorly compromising with the laid-down norms and guidelines. Moreover, since there has been no allegation by any of the State authority of any deviation whatsoever of the laid-down norms and guidelines by the concerned Puja Committee even till last year and also taking note of the undisputed fact that this Kali Puja has been held for over fifty- one years, the following directions are issued:

11. The Divisional Officer (North) of the West Bengal Fire and Emergency Services along with Deputy Commissioner of Police (North), Kolkata Police together with the Secretary and the Organizing Secretary of Naba Jubak Sangha Kali Puja Committee shall hold a joint inspection at the Puja Pandal site on 14th October, 2009 at 11 a.m. to ensure that adequate safety measures have been taken by the said Kali Puja Committee so as to ensure fulfilment of the standards required to be maintained to prevent any loss of life and limb, to the best extent possible.

12. The report shall include specific details of the safety measures that are being put in place by the said Kali Puja Committee to minimise any casualty that might happen in the event of any untoward incident, such as fire or a cave-in of the superstructure, etc. This report may be placed before the Director General of Fire Services, State of West Bengal by day after tomorrow, i.e. on 15th October, 2009.

13. The Director General of Fire Services, State of West Bengal, upon consideration of that report together with the undisputed facts as narrated above and also as stated in the writ petition, shall come to a final decision in the matter. He shall take a pragmatic and practical approach, in the peculiar facts and circumstances of the instant case. Such decision, in respect of grant of permission, has to be taken by the said authority by 16th October, 2009, latest, and duly communicated to the Naba Jubak Sangha Kali Puja Committee and all other concerned authorities.

14. I make it clear that the above directions cannot be construed as a licence for the said Naba Jubak Sangha Kali Puja Committee to deviate from the laid-down

norms/guidelines that are in force for the future nor shall it be treated as a precedent of any sort whatsoever.

15. The writ petition stands disposed of in terms of the directions given hereinabove.

16. Since no affidavits have been called for, allegations made, if any, against the State respondents are deemed to be not admitted.

17. All parties concerned are to act on a xerox singed copy of this order on the usual undertakings.