
(2016) 05 AP CK 0002

In the Andhra Pradesh High Court

Case No : Writ Petition No. 16560 of 2016

Telangana Democratic Forum

APPELLANT

Vs

The State of Telangana

RESPONDENT

Date of Decision : 24-05-2016

Acts Referred:

Constitution of India, 1950 — Article 19

Citation : (2016) 5 ALT 27 : (2016) 6 AndhLD 217

Hon'ble Judges : Dr. B Siva Sankara Rao, J.

Bench : Single Bench

Advocate : Sri V. Raghunath, Advocate, for the Appellant; Sri S. Sharath Kumar, Spl. Government Pleader, for the Respondent

Final Decision : Disposed Off

Judgement

Dr. B Siva Sankara Rao, J.—The petitioner M/s. Telangana Democratic Forum, rep. by its Convenor Sri Chikkudu Prabhakar, filed the Writ Petition against five respondents viz. State of Telangana, rep. by the Principal Secretary to the Home Department, the Director General of Police, Hyderabad for the State of Telangana, the Commissioner of Police, Warangal City, Warangal, the Assistant Commissioner of Police, Warangal City, Matwada, Warangal and the Inspector of Police, Matwada, Warangal. The prayer in the Writ Petition is to declare the action of the fourth respondent in issuing orders of cancellation of the rally and mike permission of the open meeting in C.No.442/MP/ACP-WRL/2016, dated 21.05.2016, against the earlier order granting permission in C.No.432/MP/ACP-WRL/2016, dated 14.05.2016, as illegal, arbitrary, unlawful, discriminatory and unconstitutional and to pass such other just orders.

2. The factual background shows the petitioner ? organisation is headed by the Convenors Justice Chandra Kumar, Jaini Mallaya Gupta, Prof. Haragopal, Sri Bojjatarakam, Sri K.R. Chowdhary, Sri Narayana Rao, Sri Chikkudu Prabhakar (writ petitioner representing Telangana Democratic Forum), Sri Gurajala Ravinder, Sri B.Ravindranath, Smt.Kathyayini Vidmahe, Sri Bandi Durga Prasad,

Sri Ramanala Lakshmayya, Prof.Visweswara Rao, Sri K.Y. Ratnam and Sri Kota Srinivas. It is on the letter head with the names of the organizers supra of the petitioner-organization, for short "TDF", by letter dated 13.05.2016, addressed the fourth respondent i.e., the Assistant Commissioner of Police, Warangal Town, to accord permission for mike and rally and for open meeting going to be held in Islamia College premises of Warangal city on 24.05.2016, between 04.00 p.m. to 10.00 p.m. The contents of the letter signed by Sri Chikkudu Prabhakar reads that he is the practicing advocate in the High Court at Hyderabad and is working as Convenor of the Telangana Democratic Forum (TDF) and is working for the protection of democratic and fundamental rights of Adivases, Daliths and Minority people. In this context, they are going to conduct rally and open meeting at Islamia College grounds, Warangal on 24.05.2016 and two thousand people are expected to come to participate in the meeting and therefore requested to grant mike permission and for open meeting and for rally, that would be started by 04.00 p.m. from Pochamma Maidan to Islamia College which is the venue of the meeting and with challan for Rs.100/- dated 13.05.2016 the application was moved. The permission was accorded on the next day i.e. on 14.05.2016 by the fourth respondent-Assistant Commissioner of Police, Warangal, vide C.No.432/MP/ACP-WRL/2016 to the Advocate Sri Ch.Prabhakar for organising the rally from Pochamma Maidan to Islamia College grounds on 24.05.2016 between 1600 hrs. to 1700 hrs. and to conduct the meeting between 1700 hrs. to 2200 hrs. in the Islamiya College Grounds, Warangal with the following conditions:

- (1) No DJ system is allowed.
- (2) The loud speakers should be in low volume and should not cause any inconvenience to the public. The voice level in no case shall exceed to 85 decibels.
- (3) They should not use horn type speakers but use box type speakers.
- (4) If the applicant contravene the rules the authority competent will have right to cancel the permission.
- (5) They should not use the loud speakers near Hospital, Education institutions and Worship places.
- (6) The permission granted is liable to be cancelled at any time without giving any notice or reasons thereof.
- (7) The Pada Yatra should go in line down the road, two or three persons in a row.
- (8) Should not cause any inconvenience to common public/any section of society.
- (9) During the rally, no provocative slogans should be given against any political parties or a sector of public.
- (10) Should not cause any obstruction to free flow of the traffic.
- (11) Should not cause obstruction to functioning of any Government/Non-Government institutions.

- (12) No crackers should be burst during the organization.
- (13) The organizers will keep the mob under their control and they should not violate conditions imparted on them.
- (14) Any Police Officer not below rank of HC can ask for showing the permission at any time and should be shown.
- (15) If violation of above conditions occurs, action will be taken as per law.

3. According to the petitioner, after the arrangements were made for conducting the meeting as scheduled followed by rally to the venue, all of a sudden, the fourth respondent issued cancellation proceedings dated 21.05.2016 in C.No.442/MP/ACP-WRL/2016, which is the impugned order. The order reads that on requisition of TDF represented by Sri.Chikkudu Prabhakar, permission was accorded on 14.05.2016. However, in the course of time the evolution of TDF and its intentions came to light through the seized documents from Bolelang EOF (Exchange of Fire) which occurred on 01.03.2016 and on analysing the document of the CPI (M), it is to understand that the formation of TDF itself was on the directions of the outlaid CPI (M) leaders. TDF was the outcome of the amalgamation of all the frontal organisation of the CPI (M). It is also noticed that the leaders of the TDF are portraying the eminent personalities in the forefront and propagating the TDP meeting by organising press meets in various districts and releasing wall posters and pamphlets depicting the State and Central Government as villains, thereby poisoning the minds of innocent Adivasis. The order further reads in their wall posters and pamphlets they are attributing each and every EOFs between security forces and outlaid CPI (M) as fake and fictitious and thereby inciting the poor and innocent minds of poor people to fight against the Government in the guise of protecting their democratic rights. Reliable inputs also indicate that the Maoist cadre including arm cadre would participate in the meeting and incite violence targeting political executives and police officers. Inputs also indicate that there is no agenda in organising meeting, except implementing the hidden agenda of CPI (M) to revive violence which they used to do earlier and revive the movement in Telangana State. The main intention behind organising the TDF meeting is to implement the hidden agenda of the CPI (M) to strengthen and activate the mass basis, which is one of the arm of the banned CPI (M) organization. Further, on enquiry with Islamiya College authorities, it is ascertained that the authorities have cancelled the permission to hold meeting by the Telangana Democratic Forum on 24.05.2016 vide cancellation letter Rc.No.IES/05/Ground/2016, dated 20.05.2016 of Secretary Islamiya Education Society, Warangal at Islamiya College Ground, Warangal and a copy was sent to the Assistant Commissioner of Police for further information.

4. From this background of facts referred supra, including reasons for cancellation on 21.05.2016 of the permission accorded on 14.05.2016, which is impugned in the writ petition; the affidavit averments of the Writ Petition save the facts covered supra, are further that, TDF forum in September, 2015 was

constituted with eminent persons who are referred as Convenors supra of whom one is the retired Judge of the High Court at Hyderabad, two of them are professors, one is a famous freedom fighter and the others acting for Civil Liberties Committee, Human Rights Forum, Organization of People Democratic Rights and other organisations to protect fundamental rights and democratic rights of adivasis, daliths, minorities including women in the State of Telangana and for the past six months the TDF is conducting number of programmes and agitations peacefully and in a democratic manner like dharnas, open meetings, round table meetings, chalo Assembly to punish the culprits of lockup deaths against fake encounters, atrocities against women and to fight against the incidents of caste, gender and religious discrimination and the TDF has taken a decision to conduct rally and open meeting at Islamia Educational Society College Grounds on 24.05.2016 to protect the fundamental rights and democratic rights of adivasis, daliths, minorities including women by their participation, whom the eminent speakers address, that they paid ground fees of Rs.7,000/- to the Management of the College and also obtained permission from the fourth respondent-Assistant Commissioner of Police, after the college authorities accorded permission to hold the meeting therein and having been given the permission, unexpectedly, the Secretary of the Educational Society started making calls to Sri Chikkudu Prabhakar from 20.05.2016, stating the fifth respondent i.e., the Inspector of Police, Warangal Town, Matwada area, without any reason forced them to cancel the ground permission to convene the meeting in their college, saying otherwise he will recommend to the higher authorities to cancel the college permission and for which even the deponent of the writ petition affidavit Sri Ch.Prabhakar, replied that the fifth respondent has no such power to recommend to cancel the college permission for they have not violated any conditions, there is no response. It is the contention that even the college authorities have no right to unilaterally cancel the permission already accorded. It is the contention therefrom that the consequential canceling of the permission by showing several reasons in the cancellation order by the fourth respondent are arbitrary, unjust and violation of the freedom of speech and expression guaranteed, even qualified by the Article 19 of the Constitution of India and the impugned order is a biased outcome with malicious intention to suppress the holding of the public meeting, though the TDF is a constitutionally and legally functioning forum and the meeting's aim is to conduct peacefully, to expose the aspirations of the people of the Telangana State and to express opinions within the ambit of fundamental rights followed by rally. It is the submission therefrom that already meeting arrangements made with organised infrastructure and huge campaign and at this hectic situation, cancellation of the permission within the days time gap to the meeting is uncalled for and thereby sought to set aside the impugned order and accord permission.

5. The Spl. Government Pleader for the State of Telangana, representing the respondent Nos.1 to 5, appeared and opposed the writ petition and also the interim order sought for including of maintainability showing the freedom of

speech and expression guaranteed by Article 19 (1) is a qualified one to be controlled by Article 19(2) to (5) of the Constitution of India, that the intelligence information discloses that the CPI(M) group with ammunition wants to create some sort of violence under the guise of attending the meeting and from the reliable information there is every possibility of not only breach of law and order problem but also creating violence targeting the police and ruling political party leaders to make the situation uncontrollable. It is also the submission that the agenda behind the meeting is to create ill feelings and hatred among public and to commit the offence of Sedition and war against the Government under the guise of freedom of speech and expression to propagate and protect the rights of adivasis, minorities and women and thereby the cancellation order supported by reasons noway requires interference by this Court, much less to accord any permission for such meeting to hold when it is not conducive to conduct anywhere within the Warangal city in the present factual scenario. It is also the submission by showing wall posters in the name of Jagan of CPI(M) group, a banned organisation in inviting to attend the meeting supra, the hidden agenda behind them. It is his submission that once the police to maintain as part of duty of peace in society, to control the law and order, came to the conclusion from the discrete enquires and intelligence reports and mentioned the ground realities for cancellation, the question of exercising judicial wisdom by sitting against the impugned order canceling the permission does not arise for the Court is not the expert in the field and thereby sought for dismissal of the Writ Petition. His further contention is that Islamia Education Society once issued letter to the Assistant Commission of Police canceling the permission that is referred in the proceeding, once permission is cancelled of the venue where the meeting proposed to be conducted and even the writ petition averments speak the phone calls information to the petitioner deponent Sri Ch.Prabhakar by the Secretary of the college Society of canceling the permission, the question of permitting to conduct the meeting in the cancelled premises does not arise. It is thereby the submission further that the relief in the Writ Petition to impugn the cancellation order or to accord permission to conduct the meeting at the Islamia College premises is infructuous.

6. In reply to it, it is the contention of the learned counsel for the petitioner Sri V. Raghunath that though under Article 19 (2) of the Constitution of India freedom of speech and expression is qualified one, it is one of the recognised fundamental rights as also observed by the Apex Court in *Indian Express Newspapers(Bombay) Private Limited and others v. Union of India and others*, (1985) 1 SCC 641 at paragraph No. 68 referred to Lord Simon of Glaisdale in *Attorney-General v. Times Newspapers Limited*, (1974) AC 273 of it has four broad social purposes to serve viz. it helps an individual to attain self fulfilment, it assists in the discovery of truth, it strengthens the capacity of an individual in participating in decision-making and it provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change. All members of society should be able to form their own beliefs and

communicate them freely to others. In sum, the fundamental principle involved here is the people's right to know. Freedom of speech and expression should, therefore, receive a generous support from all those who believe in the participation of people in the administration. It is on account of this special interest which society has in the freedom of speech and expression that the approach of the Government should be more cautious while levying taxes on matters concerning newspaper industry than while levying taxes on other matter. The counsel for the petitioner also placed reliance of other expression of a Single Judge of this Court in *A.P. Civil Liberties Committee v. Collector and District Magistrate, Guntur District and others*, 2003 (2) An.W.R. 270 (A.P.) wherein a circular issued by the District Collector directing incharge of grounds, meeting halls, Kalyana Mandapams and other public place owners, which are convenient to conduct meetings, to obtain advise from local police inspectors or sub-divisional police officer concerned before sparing such grounds for purpose of conducting public meetings by petitioner organisation known as A.P. Civil Liberties Committee. The Court observed that such restrictions cannot be imposed by the single order of the Collector and District Magistrate being unconstitutional and against the protection of rights regarding the freedom of speech and expression, assemble peacefully without arms and to form associations or unions however, can be restricted by a legislation in a qualified manner, but without there being any legislation under Article 19(2) to 19(4), the protection given to a citizen with regard to freedom of speech and expression to assemble peacefully without arms and to form association cannot be restricted by such circular orders. It is further observed referring to several of the expressions of the Apex Court, that it is open to the respondent-police and the Executive Magistrate concerned to take appropriate action against the petitioner and its members, if they violate any of the provisions of the Indian Penal Code or for any act of illegality or for any violation of law. But, as long as the petitioner organisation is not banned, it cannot be open for the respondents to curtail their rights in giving speeches in public meetings. It is observed further that if the public meetings held by the petitioner organisations, members committee were found propagating the extremist ideology and illegally criticising the policies of the Government and diverting the youth from main stream to extremism, it is open to the police to take action against the concerned.

7. Against the two decisions placed reliance by the petitioner, the Spl.G.P. Sri Sharath Kumar, placed reliance on the expression of the Apex Court in *State of Karnataka v. Dr. Praveen Bhai Thogadia*, (2004) 4 SCC 684, where it is observed by the Apex Court that the Courts should not normally interfere with matters relating to law and order which are primarily within the domain of administrative authorities, as they are, by and large, the best placed to assess and handle the situation depending upon the peculiar needs and necessities within their special knowledge. The Supreme Court also took note of the fact that such a decision may involve, to some extent, an element of subjectivity on the basis of material gathered by such authorities and that the past conduct and antecedents of a

person or a group or an organisation may certainly provide sufficient such material or basis. It is further observed by the Apex Court that valuable and cherished right of freedom of expression and speech may at times have to be subjected to reasonable subordination to social interests, needs and necessities to preserve the very core of democratic life, preservation of public order and rule of law. It is thereby cautioned that unless the order passed is patently illegal and without jurisdiction or with ulterior motives and on extraneous considerations of political victimisation by those in power, normally, interference should be the exception and not the rule as the Court cannot in such matters substitute its view for that of the competent authority.

8. Heard both sides at length, including on the propositions with reference to the facts on hand referred supra and perused the material on record.

9. Now the point that arise for consideration mainly is:

(i) Whether the meeting proposed to be conducted can be permitted with any restrictions by setting aside the order canceling the permission and if so or if not even as to what observations?

(ii) To what relief?

10. The factual scenario needs no repetition, so also the propositions of law. The application for conducting the meeting on 24.05.2016 was dated 13.05.2016 and credentials of most of the persons who are Convenors of the petitioners' Forum cannot be disputed, but for few of them as pointed out by the Spl. Government Pleader. Permission was in fact accorded on the next day i.e. on 14.05.2016. It cannot be said, it is without any basic facts on enquiry, accorded so casually. No doubt from the cancellation order dated 21.05.2016, which is communicated to the petitioner immediately thereafter, if not on the next day, since impugned in the writ petition, there is two to three days gap to the meeting. The permission is accorded on 14.05.2016. The said permission was cancelled on 21.05.2016 i.e. after a gap of one week. In support of the order for cancellation what are the reasons mentioned is the wall posters and the material by virtue of pamphlets circulated, according to the respondent, on behalf of the petitioner organisation and which substantiates the reasons mentioned in the order canceling the permission accorded on 14.05.2016. No doubt the material supports it. But, the petitioner disowns the liability so far as the wall posters in the name of Jagan of CPI (M) is concerned, but for the pamphlets published in the name of the petitioner organisation as a source of discriminating information for protecting the fundamental rights of the Adivasis, minorities, schedule caste and tribe people and women and against the police atrocities under the guise of self-protection for the police in the alleged brutal killings. Needless to say, some of the matters are pending before the Courts and are subjudice and in the this regard, even under the guise of protecting the fundamental rights or imparting the rights of the alleged victims to be enlightened, these issues cannot be specifically spoken in the proposed meeting, but for by addressing on general

empowerment and general enlightenment of the needy by the speakers concerned. The reason for what the learned Spl.G.P. pointed out for objection to convene the meeting is the Islamia Society already cancelled the permission. Undisputedly the writ petition averments also show phone calls received of canceling the permission. There is a written proceeding given by the Secretary of College to the police canceling the permission and it is referred in the meeting permission cancellation proceedings of the police dated 21.05.2016.

11. When such is the case, the venue where the permission accorded on 14.05.2016 is not stated available to convene the meeting, one has to see whether it is the sole ground for cancellation of permission referred in the cancellation order dated 21.05.2016. However, the fact remains the Court cannot close the writ petition on that ground alone, but for to say the college committee represented by Secretary not made a party to the writ petition even to observe any such unilateral cancellation is not sustainable. Thereby, it cannot be said the Writ Petition is infructuous, once the petitioner has come forward with alternative venue. In fact, the petitioner even yesterday submitted to the Spl.G.P., permission obtained of the alternative venue for convening the meeting at Vishnupriya Gardens at Hunter Road, Hanmakonda of Warangal City. It is undisputedly an in-house, besides open place, if any. Once such is the case, the Court can within its discretionary jurisdiction under Article 226 of the Constitution of India, can consider in asking the police to consider the alternative accommodation, as the petitioner submits that the written communication of cancellation by the Islamia Education Society at College Grounds permitted to hold the meeting not even communicated in writing to them, though to the police apart from other conditions of once permission is given the unilateral cancellation is untenable but for the Society is not made a party to the Writ Petition by so questioning even to go to the correctness of the cancellation of the order. Thus, it is for the Court even to consider the said premises of the College ground if not available from availability of the alternative venue of meeting at Vishnupriya garden premises. Though it is the submission of the Spl.G.P. that even for the venue, the same problem arises. This Court feels, to subserve the ends of justice and to protect the freedom of speech and expression enshrined by Article 19 of the Constitution of India, though qualified one from the restrictions that can reasonably be imposed, as part of the duty of the Court to protect, to pass some orders as arrangements were already made to convene the meeting.

12. Having regard to the above, the Writ Petition is disposed of by permitting to convene the meeting at Vishnupriya Gardens, Hunter Road, Hanmakonda, between 04.30 p.m. to 06.30 p.m. on 24.05.2016 with the following conditions and directions:

(1) There shall not be any open procession or mike announcements with procession; much less from Pochamma Maidan to the Vishnupriya Gardens, but for individually those who want to attend the meeting and participate can attend at Vishnupriya Gardens.

(2) The meeting must be scheduled on or after 04.30 p.m. and shall conclude by 06.30 p.m. The persons shall disburse at least by 07.00 p.m. from Vishnupriya Gardens, after the meeting. After 10.30 p.m., at Warangal City, there shall not be any persons moving in groups more than two to three including among those persons who attend the meeting.

(3) The meeting shall be conducted within four walls of Vishnupriya Gardens as an in-house meeting and the police are permitted to cover the same with C.C.T.V.Footage/coverage with any videography.

(4) The persons to be addressed must be restricted to five and the permission is given upon the selected seven persons viz. Justice Chandra Kumar, Sri Jaini Mallaya Gupta, Prof.Haragopal, Narayana Rao, Smt. Katyayini Vidhmahe, Prof.Visweswara Rao and Balla Ravindranath. Among them, five persons to address and the concession of two more persons is considered, if any of those absent, to restrict among the seven to five and shall not exceed the speakers more than five, among the seven as referred supra. Others shall be in general without mentioning specific incidents more particularly of those matters which are subjudice in any of the Courts of law, but for any general addressing by enlightening the rights and empowerment of Adivasis, minorities and women including Dalit community, as per the letter to hold the meeting the purpose mentioned on dated 13.05.2016.

(5) It is made clear that before entering into Vishnupriya Gardens premises, police are entitled with metal detectors to screen the persons, including the public for any possibility of any person carrying any weapons or ammunition, so that they shall attend freely and peacefully and to achieve the purpose of imparting freedom of speech and expression and enlightening the rights and obligations of those who referred as victims.

13. There shall be no order as to costs.