

(2024) 04 CAL CK 0055
In the Calcutta High Court
Case No : WPA No. 9937 Of 2024

Vishva Hindu Parishad & Anr.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 15-04-2024

Acts Referred:

Indian Penal Code, 1860 — Section 307, 325, 427, 436

Citation : (2024) 04 CAL CK 0055

Hon'ble Judges : Jay Sengupta, J

Bench : Single Bench

Advocate : Subir Sanyal, Kishore Dutta, Amitesh Banerjee, Amal Kr. Sen, Rudrajit Sarkar, Lal Mohan Basu, Asok Kr. Chakraborty, Tirtha Pati Acharya, Sukanta Ghosh, Rivu Dutta, Krishnendu Sarkar, Anindya Sundar Das, Raja Adhikary, Mrinal Das, Anup Dasgupta, Debapriya Samanta, Syed Ali Afzal, Shoumajit Mukherjee, Subrata Mandal, Ratul Deb Banerjee, Ajit Mina, Gautam Sardar

Final Decision : Disposed Of

Judgement

Jay Sengupta, J

This is an application praying for direction upon the respondents to permit the petitioners to hold a religious rally on 17.04.2024.

Leave is granted to add the Union of India as a party.

Let necessary corrections to be made in course of the day.

Amended copy of the writ petition be handed over to the Union of India through the Office of the learned Additional Solicitor General.

Report filed on behalf of the State is taken on record.

A copy of the same is handed over to the learned counsel for the petitioners.

Learned senior counsel representing the petitioners submits as follows. The

petitioner no.1 is an organisation engaged in various social activities with an objective to organise and consolidate the Hindu society and to serve and protect the Hindu Dharma. The petitioner no.2 is the President of the said petitioner no.1. The petitioners want to organise Ram Navami Shobhayatra Rally, where the followers of Lord Rama will participate in the religious procession. It will be conducted on 17.04.2024 between 3pm and 6pm. Similar rally has been conducted by the petitioners for the last 17 years. The petitioners would limit the number of participants at a time to 200. The march will begin from B. E. College Gate No.1 and end at Ramkrishnapur Ganga Ghat. It will pass through a portion of G.T. Road. After an application to this effect was made to the police authorities, the police suggested an alternative route citing law and order reason and asking the petitioners to follow a route after Kazipara through the Foreshore Road and then end their march at Ramkrishnapur Ghat. This will render the procession infructuous because Foreshore Road mainly has godowns and ware houses in its way. This is hardly a residential area where people staying could come out, as on the G.T.Road, to garland Lord Rama. It is true that last year certain untoward incidents had taken place being instigated by members of another community. There are cases pending over the same. However, that is no reason for the petitioners not to have such a procession through the G.T. Road. Incidentally, members of the other community regularly have their religious meetings on the said road. In fact, an organisation owing allegiance to the ruling political dispensation also intends to hold a similar rally on Ram Navami through the same route on the same day. The petitioners undertake not to permit any kind of incitement to violence, not to carry arms and not to use any abusive language.

Learned senior counsel representing the State relies on the report and submits as follows. First, at present, the Foreshore Road also houses residential buildings and complexes. The alternative route would have been easier to manage. No permission has been granted to the other organisation, which the petitioners have referred to as owing allegiance to the ruling political dispensation, to hold any such procession or rally on the date and at the same route. Last year, when the petitioners had taken out such procession, they were having 10,000 to 15,000 participants. There were several offences committed on that day. Criminal cases had to be started, inter alia, under Sections 307, 325, 427 and 436 of the Penal Code and under other provisions of law. There are photographs of some of the participants belonging to the petitioners' organisation vandalising the area on that day last year. Subsequently, a Division Bench of this Court transferred all these investigations to the NIA. The Division Bench, in fact, granted liberty to the State to alter the route to be taken by the participants, if necessary. The State has, in fact, allowed several other rallies in the Howrah District itself on the occasion of Ram Navami. This year, due to the ensuing elections the State is having dearth of forces even to manage a contingent of 200 participants.

Learned Additional Solicitor General representing the Union of India submits that in the event the State makes a request to any Central Paramilitary Force to assist

and maintain peace on the occasion of such rally, the Union of India shall arrange for necessary forces.

The concern of the State is justified that in the preceding year certain untoward incidents had taken place.

Had it been the case that the petitioners wanted 10,000 to 15,000 participants of their organisation to pass through the area, a portion of which has been described as sensitive by the State, this Court could have thought about the alternative route. However, a total number of 200 participants should be quite manageable to pass through any area in the State without leading to any untoward incident.

Everyone has a right to express himself or exercise his right to practice his religion, albeit, subject to reasonable restrictions.

Moreover, the procession is being taken out purportedly for the last 17 years. No one can be prevented from undertaking such regular activity on the fear that some miscreants might create any problem.

The further concern of the State that because of the Elections, there is dearth of forces is quite understandable. That is why the State shall be permitted to request for Central Forces to maintain peace on that day.

In view of the above, let the petitioners be permitted to take out the procession on Ram Navami through the route as prayed for on 17.04.2024 between 3pm and 6pm, however, subject to the following conditions.

(a) At any point of time, the total number of participants shall not exceed a number of about 200. In order to ensure that the number of participants is limited to 200, the petitioners shall make necessary announcements and issue leaflets, if required.

(b) The organisers shall nominate 5 persons from amongst themselves who shall be held responsible for conducting the procession.

(c) No vehicles shall be permitted in the said procession except for the one, which would carry the tableau and the idol of Lord Rama.

(d) The participants shall not carry or brandish any arms or weapons.

(e) The participants and the organisers shall not use any foul language or incite violence.

(f) Since the model code of conduct for the Elections is now in operation, the participants shall abide by the same.

(g) The participants shall also abide by relevant pollution norms including sound norms. Only normal sound system should be used. No disc jockey shall be allowed in the said procession.

(h) The participants in the procession shall not halt or pause at any place and would continue to gradually proceed towards their final destination.

The police authorities, on their part, shall ensure that they deploy adequate number of armed personnel to ensure peace and to see that no harm ensues either to the participants or to the residents and the passers-by.

If necessary, the State shall make request for Central Para Military Forces with a prior notice of 24 hours' to the concerned authority including the Nodal Officer/IG, CRPF.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

Parties shall act on a server copy downloaded from the official website of this Court.