

17.02.2023.
Court No.13
Item No. 8
ap

W.P.A. No. 3749 of 2023

Tushar Kanti Ghosh
Versus
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Advocate,
Mr. Samim Ahammed,
Ms. Gulshan Parveen.

...For the petitioner.

The petitioner wants to hold a political rally peacefully in Bhangore area and in the jurisdiction of Kolkata Leather Complex Police Station and Kashipur Police Station, Baruipur Police District.

The Officer-in-charge, Kashipur Police Station and the Inspector-in-charge, Bhangore Police Station have submitted instructions dated 15th February, 2023 and 14th February, 2023. The same are taken on record.

It is submitted that in view of the recent volatile clash between the members of three political parties i.e. the TMC, the ISF and the CPI(M), the Inspector-in-charge, Bhangore Police Station issued an order under Section 144 of the Code of Criminal Procedure and the petitioner, therefore, has been asked not to hold such rally.

Mr. Bhattacharya, learned Senior Advocate appearing on behalf of the petitioner would submit that firstly, as to whether the Inspector-in-charge of

Police Stations has been empowered to issue an order under Section 144 of the Code of Criminal Procedure by the State is not clear. Secondly, even after the order under Section 144 of the Code of Criminal Procedure had been passed, another political party was allowed to hold a rally on 8th February, 2023.

The Inspector-in-charge, Bhangore Police Station shall furnish fresh instructions in the matter on the adjourned date.

The questions raised above shall be addressed by the Inspector-in-charge, Bhangore Police Station. It shall be indicated as to how the constitutional right to hold a peaceful demonstration by the petitioner, can be interfered with by issuing order under Section 144 of the Code of Criminal Procedure. The current law and order situation shall be revisited and reassessed.

It further appears from the report of the police that two FIRs being FIR No. 12 of 2023 dated 21.01.2023 and FIR No. 13 of 2023 dated 21.01.2023 have been registered in respect of certain incident against the members of one political party.

Since the police are aware of the likely trouble makers, it shall be explained as to why the situation cannot be remedied by suitable police deployment.

Given the nature of the issue, this Court deems it necessary that the learned Advocate General of this Court should represent the State in this matter.

Let a notice be served on the Office of the Advocate General to assist the two Police Stations in the matter.

List the matter on 20th February, 2023 marked "***To Be Mentioned***".

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)