

21.12.2023
Court No. 13
Supplementary
List Item No. 1
AP

WPA 28257 of 2023

**Sangrami Joutha Mancha and Anr.
Vs.
State of West Bengal and Ors.**

Mr. Soumya Majumdar
Mr. Bikram Banerjee
Mr. Sudipta Dasgupta
Mr. Arka Nandi
Mr. Sondwip Sutradhar
Ms. Suthirtha Nayek
Mr. Baibhav Roy

.... For the Petitioners.

Mr. Amitesh Banerjee, Senior Advocate
Ms. Ipsita Banerjee

.... For the State.

1. The petitioners are employees of the State and want to hold a peaceful sit-in demonstration for pressing the demand for release of DA. They want to hold such sit-in demonstration at the Nabanna Bus Terminus. The bus terminus area comprises of above 1 lakh sq. ft. The petitioners require only 2000 sq. ft.

2. Mr. Soumya Majumdar, learned counsel for the petitioners, submits that the bus terminus is not fully operational. Location of the bus terminus is unlikely to disrupt any movement on the highways connecting to Vidyasagar Setu.

3. Mr. Amitesh Banerjee, learned Senior Advocate appearing for the State, submits that the bus terminus is, in fact, fully operational and holding a sit-in demonstration there would seriously disrupt traffic in

the area and experience in the past have indicated disruption of movement of vehicles even on the connecting highways. The said highways and Vidyasagar Setu are major entry and exit point into the city.

4. It is also submitted that there is repair work going on in the Vidyasagar Setu. Four alternative venues have been suggested by the learned counsel for the State.

5. The right of employees of the State to stage a peaceful demonstration has been recognized by the Supreme Court in the case of **Kameshwar Prasad Vs. State of Bihar** reported in **AIR 1962 SC 1166** at Paragraph 18 it was held as follows:-

“18. We have rejected the broad contention that persons in the service of government form a class apart to whom the rights guaranteed by Part III do not, in general, apply. By accepting the contention that the freedoms guaranteed by Part III and in particular those in Article 19(1)(a) apply to the servants of government we should not be taken to imply that in relation to this class of citizens the responsibility arising from official position would not by itself impose some limitations on the exercise of their rights as citizens. For instance, Section 54(2) of the Income Tax Act, 1922 enacts:

“If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.”

Section 128(1) of the Representation of the People Act, 1951 enjoins on every officer, clerk, agent etc. who performs any duty in connection with the recording or counting of votes at an election shall maintain the secrecy of the voting and shall not communicate to any person any information calculated to violate such secrecy, and visits the breach of the rule by punishment with imprisonment for a term which may extend to three months or with fine. It cannot be contended that provisions on those or similar lines in these or other enactments restrict the freedom of the officers etc. merely because they are prohibited from communicating information which comes to them in the course of the performance of the duties of their office, to others. The information having been obtained by them in the course

of their duties by virtue of their official position, rules or provisions of the law prescribing the circumstances in which alone such information might be given out or used do not infringe the right of freedom, of speech as is guaranteed by the Constitution.”

6. This Court notices that Nabanna Bus Terminus is located independently and separately from any of the highways and flyovers leading to the bridge.

7. The petitioners have undertaken before this Court to ensure that there is absolutely no disruption to any traffic or any inconvenience to the public at large. The ongoing repair work on the bridge shall also not in any way be affected by the petitioners' sit-in demonstration.

8. The petitioners also agreed to restrict the number of persons participating in the sit-in demonstration to 300.

9. The petitioners originally wanted to hold the demonstration for four days. This Court restricts the demonstration to 72 hours i.e. 3 days from 22nd December, 2023 to 24th December, 2023.

10. The Commissioner of Police, Howrah shall be entitled to put in any additional restrictions in addition to those already available on the website and followed by all demonstrations in the city.

11. The petitioners undertake to hold a very peaceful sit-in demonstration and not cause any inconvenience in public at large. The petitioners shall clean the place of

sit-in demonstration after its completion. The petitioners shall also strictly maintain the noise pollution norms.

12. Subject to the above the petitioners may hold their sit in demonstration at the Nabanna Bus Terminus on the above days.

13. With the aforesaid directions, the writ petition is disposed of.

14. There shall be no order as to costs.

15. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)