

**WPA(P) 1 of 2022**

**Dr. Avinandan Mondal**  
**Vs.**  
**State of West Bengal & Ors.**  
(Through Video Conference)

Mr. Srijib Chakraborty  
Mr. Suryaneel Das

... for the petitioner

Mr. S.N. Mookherjee, AG  
Mr. Samrat Sen, AAG  
Mr. T.M. Siddiqui  
Mr. Nilotpal Chatterjee  
Mr. Avishek Prasad

... ... for the State

Mr. Aniruddha Chatterjee  
Mr. Rahul Karmakar  
Ms. Gargi Goswami

... ... for the WB Doctors Forum

A prayer has been made by the counsel representing West Bengal Doctors Forum for impleadment by stating that it is registered trust and its members want to place some relevant facts before this Court.

The prayer has not been opposed and hence allowed.

By this petition the petitioner has sought for a direction to the respondents not to hold the Gangasagar Mela which is scheduled for 8<sup>th</sup> January to 16<sup>th</sup> January on the occasion of Makar Sankranti.

Submission of learned counsel for the petitioner is that in the Mela large number of pilgrims gather to take a holy dip and sometimes the footfall reaches upto 18 lakh. He has submitted that on account of the spread of COVID in the State it is not in the larger public interest to hold

such a Mela. He has pointed out that the number of COVID cases in the State on 29.12.2021 were only 1089 and which have increased to 9073 on 04.01.2022. He has also submitted that in one day from 3<sup>rd</sup> January to 4<sup>th</sup> January the increase is from 6078 to 9073 which is about 50 per cent. He has also submitted that the present positivity rate is 33.63 per cent in Kolkata and that in the Gangasagar Mela almost 50 per cent police force of the West Bengal will be deployed which will expose even members of police force to the COVID virus.

He has also referred to The Gangasagar Mela Act, 1976 which has been enacted to safeguard the public health and welfare of the pilgrims attending the Gangasagar Mela. In terms of section 3 of the Act whole or a portion of the area within the Sagar Islands can be declared notified area by issuing a notification. He has submitted that in view of the prevailing COVID situation, the entire Gangasagar area should be declared as notified area or containment zone.

Referring to the order dated 08.01.2021 passed in WPA(P) 23 of 2020 he has submitted that previous year certain guidelines were issued to regulate the crowd in Mela but at that time spread of virus was not so much and the second wave had not started, but presently State of West Bengal is in the midst of 3<sup>rd</sup> wave.

He has also drawn the attention of this Court to the order dated 02.01.2022 issued by the State providing

that not more than 50 persons at a time would be allowed for any social, religious and cultural gathering and has submitted that in view of the said order also the Mela should not be permitted.

Learned counsel appearing for the West Bengal Doctors Forum has stated that not only the Omicron virus but the Delta variant is also spreading and in the Gangasagar Mela the pilgrims from all over the country will come through the public transport and in that process they will get infected and will also spread the virus to others.

He submits that presently the positivity rate in West Bengal is 18.9 per cent and in any case the main ceremony of Mela can be held virtually and that there is only one small hospital in the Sagar Islands where also most of the doctors are infected by COVID.

Learned Advocate General has sought time to respond to the averments made in the petition as also the submissions made before this Court.

He has submitted that the State authorities will duly consider the above plea and take an appropriate decision in respect of either banning the Mela or taking measures to regulate the rush in the Mela.

Having regard to the severity of spreading of COVID virus, we expect that the State will seriously consider the plea to ban the Mela this year and take a decision in this regard keeping in view the following factors:

- (1) Earlier order of this Court holding that life is more important in every sense in comparison to religious practices, beliefs and faith.
- (2) Possibility of spread of virus on account of oral droplets and nasal droplets in the river water and their percolation and transmission through the water when the infected pilgrims will take holy dip.
- (3) The aspect of safety of not only the pilgrims but the persons coming in contact with the infected pilgrims and the police personnel deployed in the Mela and frontline health workers deputed in this process.
- (4) The State will duly take into account the positivity rate of virus and fact that within the last 24 hours there is 50 per cent increase in number of cases and also the fact that large number of doctors are already infected.

We have been assured by the learned Advocate General that the appropriate decision in this regard will be taken and the affidavit of the competent authority will be placed on record by 2.00 p.m. tomorrow.

List on 6<sup>th</sup> January, 2022 at 2.00 p.m.

**(Prakash Shrivastava, C.J.)**

**(Kesang Doma Bhutia, J.)**