

D/L
Item No. 3
19.10.2020
(Video Conference)
Kole

WPA 8520 of 2020

Ajay Kumar De
-Vs-
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Sabyasachi Chatterjee, Adv.

...for the petitioner.

Mr. Kishore Dutta, Ld. Adv. General.
Mr. Sayan Sinha, Adv.

...for the State.

The matter pertains to the bandobast during the Durga Puja celebrations that begin in right earnest later this week. The concern of the petitioner, who has applied in public interest, is that the Covid protocol, particularly the distancing norm, may not be maintained at the Puja pandals in the State and if free access is permitted to the Puja pandals, particularly the more famous pujas in and around the city, the distancing norm can never be maintained. The petitioner apprehends that the breach in such regard may lead to an uncontrollable spurt in Covid cases across the State.

According to the petitioner, ideally, strict restrictions on the conduct of Durga Puja should have to be placed by the State Government to ensure that there was no crowding. The petitioner claims that if the pujas were permitted to be

low-key affairs, with visitors not being permitted at the public pujas, there may not have been any fear of overcrowding or of the Covid protocol not being maintained.

The petitioner points out that even for the purpose of shopping over the last few days, the distancing norm has not been maintained and there are reports of individuals packing into small spaces to carry out last-minute puja shopping. Photographs of crowds at market places and even at some of the Puja pandals have already been published in newspapers.

The malaise extends to the towns all over the State, where policing is much more diluted than in Kolkata. In the district headquarters and sub-divisional towns, where there is a nominal presence of police personnel, crowds have been building up over the last several days. At the same time, the petitioner points out that doctors across the State have been expressing serious concern regarding what the situation may be after the pujas if such uncontrolled gatherings are allowed and the Covid protocol is not followed.

The State says that several special measures have been put in place. In such regard, the State refers to a Government memorandum of September 28, 2020 intitled as the "General Guidelines for Durga Puja, 2020." The State points out that all aspects have been covered in such guidelines and express directions have been issued in detail as to how entry and exit arrangements have to be made at Puja pandals, floor markings have to be placed and wearing of the mask is mandatory. The State claims that volunteers

have been asked to be deployed at all pandals “for ensuring compliance of norms of physical distancing among visitors” and advisories have also to be issued regarding *Anjali*, *Prasad Bitoran* and *Sindoor Khela* which are traditionally conducted during the puja. The State points out that cultural programmes have been altogether prohibited and inaugurations and immersions have been directed to be conducted on a low-key.

There can be no doubt that appropriate guidelines have been prepared by the State and individual aspects, such as the activities within the pandals, prohibition of carnivals and entertainment programmes and the like, have been extensively referred to in the guidelines. There is also no doubt that police personnel and administrative authorities across the State will put their best foot forward to ensure that the guidelines are followed just as all puja organisers are expected to adhere to the same.

In addition, the State refers to a book released by the Kolkata Police detailing the police arrangements during the Durga Puja and Laxmi Puja, 2020. The index to such book reveals plans from today (*Tritia*) onwards. The index also covers the more important Puja pandals in the city and details the deployment of police personnel, the manner of conduct of traffic, crowd management and other measures.

There is a special section at page 318 of the manual incorporating the complete arrangements made by Kolkata Police for this year’s Durga Puja which deals with the special

measures to be taken in view of the pandemic. It is necessary that the guidelines issued in the light of the pandemic by the Kolkata Police be seen in their entirety:

“To ensure proper physical distancing from each other amongst the viewers.

To ensure that adequate stock of face mask, hand sanitisers is maintained at the entry points of each Pandal for the use of the viewers.

To ensure that all the members/volunteers/Police personnel on duty should also wear facemask & face shield and maintain proper physical distancing while moving in the crowd.

To ensure that adequate number of volunteers including female are deployed by the organisers for crowd control, queue management and traffic management at and around the puja pandal.

To make Round markings with permanent paint indicating the place to stand in the queue for the viewers on the pathway and wherever possible.

To ensure that no one can get access into the Puja Pandals without mask.

To ensure that every one can gain entry into the pandals after proper hand sanitization.

To encourage wearing face mask by donating face mask to the viewers coming without the same.

All Police personnel thus detailed in the Police arrangements will wear facemask, fact shield use hand sanitizer, maintain physical distance as well as all health guidelines to contain the spread of COVID-19.

To place barricades/guard rails in front of Puja Pandals if gathering is large or to restrict free entry into the Puja Pandals for maintenance of physical distancing.

If possible, take up with the puja organizers so that visitors can be hold in nearby open areas/road/streets so that gathering may be minimized into the Puja Pandals.”

Notwithstanding the exemplary guidelines issued both by the State and by Kolkata Police, it does not appear that there is any blue-print which has been prepared for the implementation of the relevant measures.

The scenario in Kolkata may be seen for the purpose of understanding the enormity of the problem. According to the State, there are around 3,000 pujas which are organised within the jurisdiction of Kolkata Police. It is also the admitted position that Kolkata Police has about 25,000 personnel on its rolls and civic volunteers in Kolkata add up to another 12,000. On the basis of 75 to 80 per cent of the entire staff ordinarily being available on any given day in any large organisation, it may be expected that about 30,000 or 32,000 of the personnel may be present on duty during the pujas. If the Kolkata Police manual for the measures taken during the Durga Puja, 2020 is anything to go by, it is evident that in some of the major pujas more than 200 police personnel have been proposed to be deployed and elsewhere the deployment is anything between 20 and 100.

It is inconceivable that Kolkata Police will have enough personnel to man the more than 3000 pujas held within its jurisdiction or to meaningfully control the massive crowds expected, in addition to managing the traffic, attending to other law and order problems and continuing the usual investigation work. Though it is submitted on behalf of the State that most of the personal security officers allotted for VVIP security may be withdrawn during the pujas for such personnel to be deployed on puja duty at pandals or the like, it is inconceivable that VIP security will be completely absent during the time.

If Kolkata Police does not have adequate personnel to manage more than 3000 pujas held within its jurisdiction, the State Police can scarcely be expected to control the crowds at the 31,000 other pujas in the districts across the State. These figures of 31,000 and 3,000 are authentic since such figures were referred to in a matter dealt with by this Court on October 16, 2020. The State had submitted that Rs. 170 crore had been distributed to 34,000 puja organisers in the State, including 3,000 puja organisers within the jurisdiction of Kolkata Police.

The virus refuses to go away. Though the healthcare facilities in the State have been augmented, with the limited resources available, the State can only do so much. In such a situation, it may be judicious to err on the side of prevention than to allow the festivities to go on without any checks and

repent later that adequate resources may not be available to provide for the massive cure that may become necessary.

When students across disciplines, whether in schools or colleges or engaged in higher studies, have been prevented from attending educational institutions for more than six months and several students stand to lose a year, it is rather incongruous that puja festivities would continue as in the previous years. Life has not been normal for the human species since or about March, 2020 and it may have been better if restrictions were put in place as to how the Durga Puja festivities would be celebrated this year.

However, now that pandals have come up and there does not appear to have been any curb in the number of pujas, particularly public pujas, being conducted all over the State, the common citizen should be discouraged from milling around or crowding or gathering in or around the pandals. The measures that have been announced by the State are well-intentioned, but may only remain a pious wish on paper without any blue-print being chalked out for their implementation on the ground. The apprehension that overcrowding could lead to an uncontrollable rise in the number of people afflicted by the virus is real and immediate. The police cannot be blamed, particularly because of the limited resources at its disposal. If the guidelines issued cannot be implemented in the lead-up to the pujas and the overcrowding in the markets in big city Kolkata and the small towns elsewhere in the State has remained by and large

unchecked, the same cannot be allowed to be repeated over the four or five days during the Durga Puja celebrations.

The State is justified when it complains that any attempt by the court to make the pandals a no-entry zone may not be effective as the crowds will be beyond the no-entry zone anyway. The State may be right. However, if the pandals are made no-entry zones and a certain distance from all sides of the pandals are covered as a part of the no-entry zone, the public at large will be aware that there will not be any access within the pandals or even close to the same and the affinity to take to the streets may be less. It will also be possible in such a scenario for the virtual coverage of the pandals, as has been appropriately suggested in the guidelines by the State, and for ordinary citizens to make do with virtual *darshan* this year and wait for the normal fare to return the next year.

This order must not be seen to be a finding against the State for the inadequacy of the measures attempted to be put in place, but only as a supplement to ensure the proper implementation of such measures by the limited police personnel, volunteers and other administrative officials and workers.

In public interest, all pandals whereat Durga Puja is being celebrated this year are made no-entry zones for members of the public. Further, for the smaller pandals, a five-metre zone beyond the extremities of the pandals on all sides and, for the larger pandals, a 10-metre zone beyond the

extremities of the pandal on all sides will be a part of the no-entry zone. In other words, the area covered by the pandals and the additional area around the pandals extending 5m from the smaller pandals and 10m from the bigger pandals will have to be barricaded as a no-entry zone. The only exception would be for the named personnel, including the priest, who will be identified by the puja organisers in advance and whose names would be displayed for checks to be made at any point of time. At the smaller pandals 15 persons will be named in the list who may have access to the no-entry zone at all times. The number will be 25 to 30 in respect of the bigger to the biggest pandals. These directions will apply to all public puja pandals all over the State, including the 34,000 pujas which have obtained grants from the State.

It will be open to the local police administration to identify which of the pandals will be regarded as small pandals for the restricted zone to be a distance of 5m beyond the furthest extremities of the pandals on all sides. Similarly, the local police authorities will identify which of the bigger puja pandals will require a 10m distance from the extremities of the pandals on all sides for the same to operate as a no-entry zone. It is made clear that all the major pujas which are referred to in the manual of Kolkata Police pertaining to Durga Puja, 2020 will be considered as the larger pandals; which will imply that all such puja organisers have to maintain a no-entry zone within the

pandals and for an area of 10m from the extremities of the pandals on all sides.

It is possible that the aforesaid measure may not be able to control the spread of the pandemic if people come out to the streets in big numbers. It is necessary, particularly in small towns across the State, for an awareness campaign to be conducted even by the local media at such places to request people to maintain the distancing norm in the present Covid times and not to descend on the streets in hoards as in regular years to celebrate the Durga Puja festival. The court hopes that the message is spread by the police and the executive authority all over the State to make people aware that it is in their interest that a degree of self-restraint must be exercised all around.

The State and the police authorities will take immediate appropriate steps to give complete effect to this order. It is made clear that the lists of personnel to be allowed access within the core puja pandals must be fixed and cannot be a floating list or changed everyday. The local police regulating the conduct of traffic and law and order in and around the pandals should ensure the strict compliance with the directions contained herein.

The Commissioner of Kolkata Police and the Director General of Police, West Bengal will file affidavits, indicating compliance with the directions contained therein. Such affidavits should be e-mailed to the Registrar-General by November 5, 2020.

The State seeks a stay of operation of this order. It is a matter of concern that the State finds the directions onerous. The prayer is unhesitatingly declined.

WPA 8520 of 2020 is disposed of without any order as to costs.

Urgent certified website copy of this order, if supplied for, be made available to the parties upon compliance with all requisite formalities.

(Arijit Banerjee, J.)

(Sanjib Banerjee, J.)