

September 13, 2022
Sl. No.SL1
Court No.1
s.biswas/jks

WPA (P) 470 of 2022

Sukanta Ghosh
vs.
State of West Bengal and others

Mr. Subir Sanyal,
Mr. Arun Kumar Mahanti,
Mr. Smarajit Roy Chowdhury,
Ms. Susmita Saha Datta,
Mr. Loknath Chatterjee,
Mr. Kashinath Bhattacharjee,
Mr. Aparna Banerjee,
Mr. Amajit De,
Mr. Chandan Kumar Saha,
Mr. Prasanta Majumder,
Mr. Kalidas Saha,
Mr. Pradip Kumar Mondal,
Mr. Dibakar Biswas,
Mr. Sanjib Das,
Mr. B. K. Singh,
Mr. Ujjwal Boral,
Mr. T. N. Sahani,
Mr. Partha Chakraborty,
Mr. Somnath Adhikary,
Mr. Dipak Kumar Chakraborty,
Mr. Rajendra Banerjee,
Mr. Gouranga Kumar Das,
Mr. Brajesh Jha,
Mr. Shib Chandra Prasad,
Mr. Rajdip Majumder,
Ms. Debjani Ghoshal,
Mr. A. K. Mukherjee,
Mr. Amrit Sinha, Advocates

... for the petitioner

Mr. S. N. Mookherjee, Id. AG,
Mr. Anirban Roy, Id. GP,
Mr. Debasish Ghosh,
Mr. V. Khothari, Advocates

..for the State

In this public interest petition the petitioner has come up with the grievance that today on 13th September, 2022 the BJP West Bengal had organized a peaceful protest on certain issues, but their *Karyakartas* have been restrained from boarding buses, trains or other public transports and have been forcibly prevented to

participate in rally. The places where such persons are restrained are disclosed in the petition.

There is also an allegation of attack on party leaders. Paragraph 17 of the petition mentions that there is an attack on party personnel inside the State head quarter of the party organizing rally and their ingress and egress from the party office has been prevented.

Learned counsel appearing for the petitioner has submitted that all the party leaders of the party, who have organized the rally, have been arrested and one of the leaders in fact has received head injury and the party office is likely to be ransacked by unwanted elements and it was a peaceful procession which has not been permitted. He has relied upon the order of the Single Bench of this Court dated 6th September, 2021 in WPA 11803 of 2021 and has submitted that the Leader of Opposition could not have been arrested as he was protected by the said order.

Learned Advocate General has vehemently opposed the petition and has produced the order of Commissioner of Police, Howrah and Executive Magistrate for the Metropolitan Area of Howrah dated 19th July, 2022 and has submitted that the restrictions under Section 144(1) of the Cr.P.C. was in force in the town of Howrah from 20th July, 2022 to 17th September, 2022 and violation thereof was not permitted. He has also produced the order of the Deputy Commissioner of Police, HQ, Howrah

dated 10.09.2022 and has submitted that permission for the rally proposed today was not granted. He has also denied any such incident which is alleged in the petition and has referred to Sections 151(2), 152 and 41(1)(e) of the Cr.P.C. in support of plea of action against those who had obstructed the police personnel and has submitted that no complaints have been made about any incident. He has submitted that order of Single Bench was in respect of cases mentioned therein.

Learned counsel appearing for the petitioner has disputed this and has submitted that CCTV footage of the concerned railway stations can substantiate the allegation and that FIRs have already been lodged and protesters have not caused damage to any public property and arrests have been made outside Howrah town.

This Court at this stage need not go into the allegations and counter-allegations of the counsel for the parties. Undisputedly peace and tranquillity is required to be maintained. Considering the aforesaid, learned Advocate General has fairly stated that the leaders who are arrested, they will soon be released on the personal bond.

Considering the circumstances of the case we direct that:

- (1) The State authorities will ensure protection of party office of the political party which had organized the rally,

(2) The State authorities will also ensure that no unnecessary arrest is made and no person is unnecessarily detained in connection with the rally,

(3) The Secretary, Department of Home Affairs of the State is directed to submit the report in respect of the alleged incident on or before 19th September, 2022.

The prayer made by learned Advocate General to keep the issue of maintainability open, is allowed.

List on 19th September, 2022.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]