

S/L 105(ML)
12.07.2022
Court. No. 19
GB

WPA 11419 of 2022

Vineet Ruia
VS
The State of West Bengal & Ors.

Mr. Pratyush Patwari.

... for the Petitioners.

*Mr. Somnath Ganguli,
Mr. Domingo Gomes.*

... for the State.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner alleges police inaction. The Officer-in-Charge, Hare Street Police Station has kept silent over the petitioner's request for permission to hold a protest.

The petitioner claims to be the president of an organisation known as Bharat Bachao Sangathan. According to the petitioner, the private unaided schools are 'committing robbery in broad daylight' by charging exorbitant fees. The petitioner had approached the Chief Minister of the State of West Bengal with a request that regulatory steps against the private unaided schools, be taken. Some of the schools mentioned are, Heritage School, Sri Sri Academy School, Lakshmipat Singhania Academy and Sushila Birla Girls School. According to the petitioner, the list is not exhaustive and several other private schools are equally at fault.

As a protest, the petitioner wishes to assemble along with some parents in front of the metro channel at Dharmatala. A prayer was made before the Officer-in-

Charge, Hare Street Police Station, for necessary permission. The petitioner wanted to undertake the protest for 30 days, beginning from June 24, 2022 with a further option to extend the period. The expected strength of such protestors, according to the petitioner, would be 200 to 500 on weekdays and 40,000 to 50,000 on weekends.

The police authorities are before the Court and they submit that assembly near the metro channel could not be allowed as it would hamper the smooth movement of the vehicles. The area is extremely populated and is a busy thoroughfare. It is also the business hub. It is next submitted that a crowd of 40,000 to 50,000 protestors cannot be handled for 30 days or more by the police authorities, and as such, permission cannot be granted.

Having gone through the writ petition, it appears that the petitioner's primary question is with regard to the fees and the non-compliance of statutory obligation by the private schools. None of the schools have been made parties to the proceeding. In any event, the petitioner has already approached the Division Bench of this Court by filing a Public Interest Litigation, with regard to the fee structure. The said litigation is pending.

A vague statement that a protest for 30 days or more having an assembly of 200 to 50,000 people would be organised, cannot be the basis for issuance of a writ of mandamus upon the police. How the petitioner is interested in such issue, who are the persons whose cause he is espousing and whether such protest would be in the aid of

securing social justice or not, are neither pleaded nor urged. Right to protest has been accepted as a part of the right to freedom of speech and expression, but the Court is not convinced about the intention of the petitioner. Such right can neither be asserted nor practised in the vacuum. There has to be a social cause and not a personal agenda. It is not evident from the pleadings, whether the petitioner is protesting on behalf of a certain class of parents or students. Vague and insufficient pleadings, does not impress the court. Moreover, it is well settled that the authority can impose regulatory measures and the police authorities are of the view that Dharmatala, Metro Channel cannot be the location for a protest which would carry on for more than a month, with an expected crowd between 200 to 50,000 persons.

Moreover, when the schools are not before the Court, passing an order of such nature would amount to permitting negative demonstration against the parties, who have not been able to justify their stand before the Court.

In the decision of ***Amit Sahni Versus Commissioner of Police and Ors.*** reported in **(2020) 10 SCC 439**, the Hon'ble Apex Court held as follows:-

“We have, thus, no hesitation in concluding that such kind of occupation of public ways, whether at the site in question or anywhere else for protests is not acceptable and the administration ought to take action to keep the areas clear of encroachment or obstruction.”

Thus, it is within the domain of the administration to take a decision to regulate and impose reasonable

restrictions on the request of the petitioner to hold the protest on a public street. Harassment to the commuters and the business men operating from the area in question, cannot be permitted nor can the petitioner paralyse the activities in the main business area of the city, in the name of a protest.

The writ petition is devoid of any pleadings, as to why the petitioner thought it fit to carry out a protest by organizing an assembly of a huge number of people in front of the metro channel in Kolkata.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)