

25.01.2024.
Court No.13
Supple Item No. 1
ap

W.P.A. No. 1790 of 2024

**Sanjib Kumar Sau
Versus
The State of West Bengal & Ors.**

Mr. Rajdeep Majumder,
Mr. Moyukh Mukherjee,
Mr. Pritam Roy,
Ms. Sagrika Banerjee.

...For the petitioner.

Mr. Kishore Datta, Id. Advocate General,
Mr. Amal Kumar Sen, AGP
Ms. Amrita Panja Moulick.

...For the State.

1. Affidavit-of-service filed in Court today be taken on record.
2. The petitioner is aggrieved by an order passed by the Inspector-in-charge, Hasnabad Police Station dated 22nd January, 2024 declining a Tiranga Yatra Rally to be organized by the petitioner and their supporters from Hasnabad Bakultala to Barunhat Hospital More between 12 Noon to 4:00 P.M. on the 26th January 2024.
3. Counsel for the petitioner has indicated that about 3000 persons would participate in the Tiranga Yatra. The object of the rally is to commemorate and celebrate the Tri-colour which are the national colours of this nation.

4. In support of the refusal of the Hasnabad Police Station, Mr. Amal Kumar Sen, learned Additional Government Pleader, has produced their report.

5. Three reasons have been indicated for declining permission for the rally. The first of which is that 26th January, being Republic Day, is celebrated by many schools, colleges, clubs and other organizations. The police would be busy in providing security to such functions. Hasnabad Police Station does not have sufficient number of police personnel to spare sufficient force to man the rally of the petitioner.

6. This Court notes from experience that functions on Republic day in India are mostly held in the morning and hardly any police force is deployed at schools, colleges, clubs and other organizations for the aforesaid purpose. The said ground, therefore, is not sustainable.

7. The second defence taken by Hasnabad Police Station is that the venue of the rally is very closed to 'Taki Town', which is thronged by tourists on a holiday.

8. While it is true that there may be limited amount of police personnel for the purpose of crowd control, the holiday available to citizens and spent in open space across the country and particularly the State have been mostly peaceful. People are generally in a joyous and happy mood. It is unlikely that there will be

disturbance or requirement of any heavy police personnel on a particular date.

9. The third argument of Hasnabad Police Station is a request from the Border Security Force issued under the signature of the Commandant, 85th Battalion, BSF requesting for a sufficient number of police representatives on 23rd January, 2024 and 25th January, 2024 at BOP, Sodepur.

10. Hasnabad Police Station has under his jurisdiction 18 odd kilometers of the International Border with Bangladesh wherefrom subversive activities are anticipated. It appears from the request of the Border Security Force dated 24th Jan 2024 that only a representative of the police has been requested on 24th or 25th or 26th January, 2024.

11. For sending one police representative, to work along with Border Security Force, it is unlikely that Hasnabad Police Station would face any shortage of police staff.

12. Another ground that has been indicated is that similar proposals for rallies of other political outfits have been declined by Hasnabad Police Station. Such parties or organizations have not approached this Court against the refusal. Their cases may not be relevant in the facts of the present case.

13. The petitioner has already indicated to hold a peaceful rally. Time therefor between 12 Noon to 4:00 P.M. also indicates that there are unlikely to be any

Republic Day function of any other organization or bodies at the relevant point of time.

14. Every citizen of this country takes pride in the Tri-colour. To promote respect and dignity for the same is to promote of building of a National identity, unity and a patriotic gesture. It is apt and appropriate to hold a Tiranga Rally on Republic Day.

15. This Court is not concerned with any political colour of any person, who wishes to hold a rally to promote Tri-colours. It is the bounden duty of all the Security Forces and Police in this country to promote such rallies and functions.

16. In so far as the inconvenience to the public at large, a Division Bench of this Court headed by the Hon'ble the Chief Justice has already pronounced that rallies are common place in the State and City. The public at large are used to such rallies and inconvenience to them is taken in stride.

17. With the aforesaid observations, this Court directs the Hasnabad Police Station to promote the rally of the petitioner on the given date and time and on the specific venue.

18. The petitioner shall, however, ensure that no emergency services are in any way obstructed. The writ petitioner himself shall be the person responsible for all the undertakings given in the writ petition and for compliance of all the stipulations and conditions

that are normally imposed by the police for holding any public rally in the State.

19. The report of the Inspector-in-charge, Hasnabad Police Station dated 25th January, 2024 filed in Court today is also kept on record.

20. With the aforesaid directions, the instant writ petition is allowed and disposed of.

21. There will be no order as to costs.

22. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)