

01 19.11.2020
D/L

Ct. No. 16

akd & ab

W.P.A. 9184 of 2020

With

I.A. No. CAN 1 of 2020

Ms. Anasua Bhattacharya

Vs.

State of West Bengal & Ors.

With

W.P.A. 9209 of 2020

With

I.A. No. CAN 1 of 2020

And

I.A. No. CAN 2 of 2020

Ajay Kumar De

Vs.

Government of West Bengal & Ors.

With

W.P.A. 9256 of 2020

With

I.A. No. CAN 1 of 2020

Doctors for Patients & Anr.

Vs.

The State of West Bengal & Ors.

(Via Video Conference)

Mr. Indrajeet Dey,

Mr. Kushal Das.

... for the petitioner

in

WPA 9184 of 2020

And

WPA 9209 of 2020

Mr. Avijit Chatterjee,

Mr. Sayantan Basu,

Mr. Tanmoy Roy.

... for the petitioners

in

WPA 9256 of 2020

Mr. Kishore Datta, Ld. Adv. Gen.,

Mr. Abhrotosh Majumdar, Ld. AAG,

Mr. T. M. Siddiqui,

Mr. Sayan Sinha.

... for the State.

Mr. N. C. Bihani,

Ms. Papiya Banerjee Bihani.

... for the respondent no. 4.

Applications have been taken out by the State for a minor modification of the order dated November 10, 2020 by which a complete ban on firecrackers was imposed throughout the State for the remainder of the month of November and certain other directions were issued in respect of various celebrations including Kali Puja and Chhat Puja.

At the outset, the State must be commended for the manner in which the prohibition on the firecrackers was implemented, at least in and around the city of Kolkata. There were, doubtless, disturbing pockets and the stray use of fireworks; but, by and large, it was a sound and smoke-free Kali Puja and Diwali that the city and its adjoining areas experienced. It is hoped that the State continues in the same vein during the rest of the month, including during Chhat Puja, Jagadhatri Puja and Guru Nanak Jayanti celebrations.

The State says that in the order dated November 10, 2020 it has been recorded that the National Green Tribunal has passed orders prohibiting Chhat Puja celebrations at Rabindra Sarobar and Subhas Sarobar. The State says that there is no National Green Tribunal order as regards Subhas Sarobar, though there is a subsisting order in respect of Rabindra Sarobar.

It needs to be recorded at this stage that KMDA had approached the Supreme Court against the order of the NGT pertaining to Rabindra Sarobar. The State informs the Court that the order regarding prohibition of Chhat Puja at Rabindra Sarobar has not been interfered with by the Supreme Court at the hearing held today.

The State submits that since Subhas Sarobar is outside the purview of the NGT order, the injunction

issued by this Court pertaining to Subhas Sarobar should be vacated. In other words, the State seeks permission to allow Subhas Sarobar to be used for Chhat Puja celebrations.

To the extent that the order dated November 10, 2020 recorded that the NGT had passed an injunction restraining Chhat Puja celebrations at Subhas Sarobar, the same is erroneous. However, since this Court finds little difference between Rabindra Sarobar and Subhas Sarobar, two large water bodies several miles apart in two parts of the city, the prohibitory order passed by the NGT in respect of Rabindra Sarobar should apply with equal force to Subhas Sarobar. Thus, while noticing the erroneous recording in the order of November 10, 2020, the injunction issued in respect of Subhas Sarobar is not vacated. There will be a complete prohibition of any Chhat Puja Celebrations whether it be at Rabindra Sarobar or Subhas Sarobar.

It is clarified that, in effect, the operative part of the order dated November 10, 2020 remains unchanged. However, the reports called for by such order may be filed by December 7, 2020.

Since the State's applications were for a limited purpose as indicated above, such applications being CAN 1 of 2020 in WPA 9209 of 2020 and CAN 1 of 2020 in WPA 9256 of 2020 stand disposed of without any order as to costs.

(Sanjib Banerjee, J.)

(Arijit Banerjee, J.)

