

(2011) 12 CAL CK 0053

Calcutta High Court

Case No: Writ Petition No. 20947 (W) and 21016 (W) of 2011

Ananda Marga Pracaraka
Samgha and Another

APPELLANT

Vs

The State of West Bengal and
Others

RESPONDENT

Date of Decision: Dec. 13, 2011

Acts Referred:

- Constitution of India, 1950 - Article 226

Citation: (2013) 1 WBLR 783

Hon'ble Judges: Jayanta Kumar Biswas, J

Bench: Single Bench

Advocate: Saptangshu Basu, with Mr Piush Chaturvedi, in W.P. No. 20947 W of 2011 and Mr Pratap Chatterjee, with Ms Manju Manot, Mr Abhra Mukherjee and Mr Bajrang Manot, in W.P. No. 21016 W of 2011, for the Appellant; A.K. Ghoshal , with Ms Chandramala Mukherjee, advocate, for the eighth respondent in W.P. No. 21016 (W) of 2011 and Jayanta Banerjee and Mr Suman Sengupta, advocates, for the State in W.P. No. 20947 (W) of 2011, for the Respondent

Judgement

Hon"ble Mr. Justice Jayanta Kumar Biswas

1. Both the WPs dated December 5, 2011 have been filed questioning a decision of the Sub-divisional Officer, Purulia Sadar (West) dated November 30, 2011. While the decision is at p.236 of W.P. No. 20947 (W) of 2011, it is at p.157 of W.P. No. 21016 (W) of 2011.

2. The petitioners in W.P. No. 20947 (W) of 2011 submitted an application seeking permission to hold their annual Dharma Maha Sammelan on December 30 and 31, 2011 and January 01, 2012. The petitioner in W.P. No. 21016 (W) of 2011 also submitted an application seeking permission to hold its annual Dharma Maha Sammelan on December 30 and 31, 2011 and January 01, 2012.

3. The petitioner in W.P. No. 21016 (W) of 2011 submitted a letter dated November 14, 2011 (at p.156 of the WP) making the following further proposals:

2. Alternately we also wish to submit that as Ranchi administration is organizing New Year DMS all these years on their choice dates (30, 31 December and 1st January) and as the Honourable Justice of Calcutta High Court, Barin Ghosh in his landmark judgment dated 28.1.2004 declared that Kolkata administration is equally entitled to manage the affairs of Ananda Marga Pracaraka Samgha, this time we should be given these dates respecting the judgment.

3. The proposal that the choice dates be divided into two i.e. 29,30, 31 December and 1,2 and 3 January is also acceptable to us. We are ready to accept any of these two sets of dates.

4. According to the petitioners in W.P. No. 20947 (W) of 2011 they are entitled to hold their annual Dharma Maha Sammelan on December 30 and 31, 2011 and January 01, 2012 and hence the Sub-divisional Officer could not reject their request for permission to hold Dharma Maha Sammelan on these dates.

5. According to the petitioner in W.P. No. 21016 (W) of 2011 it is wrong to say that the petitioners in W.P. No. 20947 (W) of 2011 have any established right to hold their annual Dharma Maha Sammelan always on December 30 and 31 and January 01. Its case is that it is equally entitled to hold its annual Dharma Maha Sammelan on December 30 and 31 and January 01.

6. The Sub-divisional Officer who examined the requests of both the groups expressed the following views:

Whereas both the groups are not ready to accept the proposals at a time to choose their different dates of Annual DMS unanimously. AND Whereas it is apprehended that because of the bitter relationship and strong rivalry between the two groups of Ananda Margis it is practically quite impossible to organize such programme of DMS by the two rival groups during the same time and a same venue. There is also every possibility of breach of peace during the period of proposed DMS. AND Whereas it is not possible to accord permission for holding annual DMS on the same dates and at the same venue to both the rival groups on administrative and law & order point of view.

7. Expressing the above-noted views the Sub-divisional Officer rejected the requests of both the parties saying as follows:

Hence, after considering all the aspects specially from law & order point of views the prayer submitted by Acharya Svarupananda Avadhuta & Bhaveshananda Avadhuta for permission to hold their Annual DMS on the same dates i.e. on 30th, 31st December"2011 & 1st January"2012 at the same venue i.e. at Ananda Nagar, P.O.-Baglata, P.S.-Joypur, Dist.-Purulia are hereby rejected.

8. Mr Basu appearing for the petitioners in W.P. No. 20947 (W) of 2011 submits as follows. The materials produced before the Sub-divisional Officer clinchingly established the right of the petitioners in W.P. No. 20947 (W) of 2011 to hold their annual Dharma Maha Sammelan on December 30 and 31 and January 01. Since the Officer has rejected the request on the grounds that he is unable to resolve the problem, on the basis of the materials produced with the petition this Court, as it has always done, should pass an order allotting the dates to both the groups according to their respective entitlements.

9. Mr Chatterjee appearing for the petitioner in W.P. No. 21016 (W) of 2011 has submitted that it is wrong to say that the petitioners in W.P. No. 20947 (W) of 2011 have any established right to hold their annual Dharma Maha Sammelan always on December 30 and 31 and January 01. According to him, the petitioners in W.P. No. 20947 (W) of 2011 holding their last annual Dharma Maha Sammelan on December 30 and 31 and January 01 cannot object to allotment of these dates this year to the petitioner in W.P. No. 21016 (W) of 2011.

10. It is evident that both the groups approached the Sub-divisional Officer seeking permission to hold their respective annual Dharma Maha Sammelans not because some provision of some law created their obligation to seek such permission, but because they wanted the administration to help them in holding their respective Dharma Maha Sammelans.

11. For undisclosed reasons the groups did not go to the Civil and Criminal Courts seeking declaration or tentative determination in summary proceedings of their right to hold the Sammelan on the three dates considered by both the groups holy dates. They wanted the Sub-divisional Officer to take an administrative decision. It means that the whole thing was regarding maintenance of law and order by the administration, not regarding determination of any legal right of the groups to hold Sammelan on any set of dates chosen by them.

12. The Sub-divisional Officer not possessing any power to decide, in pure administrative capacity, any right, was not competent to declare the rights of the two groups to any set of dates. It is only in aid of maintaining the law and order during the Sammelans that he was required, if at all, to allot dates to the groups on the basis of materials produced before him, not by taking down evidence and deciding rights of the groups.

13. Since it is his own finding that existing bitterness between the two groups is likely to cause breach of peace, it was his obligation to allot dates to both the groups keeping the obligation of the administration to maintain law and order in mind. He could not bypass the problem citing impossibility, for both the groups are entitled to hold their respective Dharma Maha Sammelans and the administration cannot afford to let the groups fight it out on the same dates at the same venue and in the process make the law and order in the locality the first casualty.

14. I do not see how power under art. 226 can be exercised for deciding which group between the two groups is entitled to use the venue in question for holding its Dharma Maha Sammelan on December 30 and 31 and January 01, or for passing an order allotting dates to both the groups. This, in the name of judicial review of the pure administrative decision of the Sub-divisional Officer, will amount to adjudication of a private dispute, to be decided by the Civil and Criminal Courts that the groups are consistently avoiding.

15. In the name of judicial review of the decision of the Sub-divisional Officer power under art. 226 cannot be exercised for substituting this Court's judicial decision for the pure administrative decision of the Sub-divisional Officer.

16. It is not the law that the two groups fighting for long for the same venue and dates have to pay a routine annual visit to this Court for an order allotting them dates chosen by this Court for holding their respective annual Dharma Maha Sammelans. Permission, if necessary every year, is to be granted by the administration in exercise of its administrative power, - nothing to do with adjudication of any lis between the parties, -- a thing to be done only by the Court.

17. Hence I am unable to accept the submission that in the facts and circumstances of the case it will be appropriate for this Court to give a decision allotting dates chosen by this Court to both the groups for holding their respective Dharma Maha Sammelans. I am, however, of the view that the decision of the Sub-divisional Officer should be set aside, and that the Officer should be directed to allot dates to both the groups keeping in mind the obligation of the administration to maintain law and order.

18. For these reasons, I set aside the impugned decision, allow both WPs to this extent, and order as follows.

19. Considering all materials produced before him and hearing the representatives of both the groups, the Sub-divisional Officer shall give a fresh decision, within three working days from the date of communication of this order, allotting dates to both the groups to hold their respective Sammelans. The decision shall be communicated to all at once. No costs. Certified xerox.