

WPA (P) 291 of 2021

Ajay Kumar De.

Vs.

The State of West Bengal and others.

**Mr. Sabyasachi Chatterjee,
Mr. Indrajeet Dey,
Mr. Akashdeep Mukherjee,
Mr. Ankur Sharma.**

... for the petitioner.

**Mr. S.N. Mookherjee, Ld. Advocate General,
Mr. Anirban Ray, Ld. GP,
Mr. Tapan Mukherjee,
Mr. Pranab Halder,
Mr. Sougata Mitra,
Mr. Bipin Ghosh.**

... for the State.

This Public Interest Litigation has been filed praying that the directions already passed by this Court on 7th October 2021 in WPA (P) 260 of 2021 modifying the order dated 5th November 2020, passed in WPA 9184 of 2020 be enforced during the immediately forthcoming successive festivals.

The petitioner is a public spirited person. The festive season is still continuing after Durga Puja, Dusserah. Kali Puja, Jagadhatri Puja, Kartick Puja as well as the Chhat Puja follow suit. The likelihood of crowding and assembly of a large number of people during the said forthcoming festivals cannot be ruled out. The learned Advocate General has submitted that they have otherwise no objection for the directions issued in the aforesaid two orders to be implemented in

the State, for the forthcoming festivals.

The petitioner, however, expresses apprehension that if the dilution as contained in the order dated 7th October 2021 is allowed, the Covid pandemic may revive into another wave. He therefore submits that the directions contained in the original order dated 5th November 2020 must alone be applied and implemented by the State without any dilution.

It appears to this Court that there is a substance in the reply of the Learned Advocate General. The directions contained in the two aforesaid orders (Supra) have been implemented and success achieved even this year up to the no entry points earmarked in front of the puja pandals and other areas specified in the order dated 5th November 2020.

However, during the Durga Puja for the year 2021, with the reduction in the Covid positive cases and the easing of the restrictions, people who have been confined and restricted at home for the prolonged lockdown, have ventured out socially, with vengeance. As a consequence of this, certain areas and popular pandals have seen enormous crowds albeit outside the entry points of the particular puja. In fact, one of such Puja had to be shut down and the concerned decorative pandal pulled down.

The onus, in fact, lies on the citizens to ensure

that there is no crowding at any place and the people should restrict themselves and apply curbs on their own to avoid and prevent overcrowding.

The State would obviously continue to take all steps to strictly implement the aforesaid orders.

This Court is equally conscious of the fact that since Covid positivity in the State is within 5%, the restrictions imposed by the State and Central Government under the Disaster Management Act and the other related Statutes, are not applicable.

Yet the likelihood of relapse of the pandemic and or a third wave, cannot be ruled out and looms at large.

In that view of the matter, this Court directs that the implementation of the following restrictions contained in the order dated 5th November 2020 and the order dated 7th October 2021 and as partially modified hereinbelow, in the State for the forthcoming Kali Puja, Jagadhatri Puja and Kartick Puja festivals,

- (i) All pandals will continue to be No-Entry Zones, including an area of five-metre beyond the pandals on all the open sides. Only dhakis will be permitted to occupy the space beyond the pandals and within the five-metre zone thereafter. Except for dhakis, the five-metre zone has to be kept completely free at all times.
- (ii) For the smaller pandals, where the covered area

excluding the dais is upto 150 square metre, only 10 persons may be in such covered area at any given point of time. For pandals with a covered area between 150 square metre and 300 square metre excluding the dais, the number of persons at any point of time may be 15. For bigger pandals, in excess of 300 square metre in area excluding the dais, a maximum of 45 persons can be within the pandals at any given point of time.

- (iii) Sanitisers must be available at the puja pandals and wearing of masks will be mandatory within and around the pandal area. The distancing norm has to be maintained at all times both within the pandals and in an around the pandals.
- (iv) Immersions should be low-key affairs and processions for such purpose will not be permitted. The use of bands and lights at the time of immersion will also remain prohibited. It will be open to the local police to provide for staggered timings so that the immersion ghats are not overcrowded.
- (v) Such entry shall be unrestricted provided each visitor is double vaccinated and wears a mask. Subject to the maximum number of persons which is allowed inside a Puja-pandal and compliance

with the other conditions like double vaccination and wearing of masks, all activities and puja rituals like Anjali, Arati, Sindur Khelaetc. are permitted inside the pandal. This entry requirement compliance shall be checked by the Puja organisers at the entrance. Spot verification is to be made by the police. If any, Puja organisation is found to be in default, the Puja and all other activities in that pandal may be forthwith cancelled by the police.

- (vi) The expression “such entry shall be provided provided each visitor is doubly vaccinated and wears mask”, should not be treated as a blanket license to one and all to throng and overcrowd the puja pandal areas in particular and street in general.

It is expected that citizens self-impose the above restrictions. Appropriate and wide awareness of the restrictions must be spread by all stakeholders, particularly, the petitioner and the State.

The directions for Chhat Puja may be considered after reopening of the Court on the 8th November 2021.

Let this matter stand adjourned and listed before the appropriate Bench after reopening of the Court.

All parties are to act on the basis of the server

copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Kesang Doma Bhutia, J.)