

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 11803 of 2023**

RAJVEER
Versus
STATE OF GUJARAT

Appearance:

JUCKY LUCKY CHAN(8033) for the Petitioner(s) No. 1
for the Respondent(s) No. 2,3,4,5,6
MR. AYAAN PATEL, AGP for the Respondent(s) No. 1

CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI

Date : 10/08/2023
ORAL ORDER

1. By way of present petition, the petitioner herein has prayed for the following reliefs:

"8(A) YOUR LORDSHIPS may be pleased to admit and allow the present petition:

(B) YOUR LORDSHIPS may be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction commanding to the respondents no. 1 and 2 to frame law and regulation for the any person, organization, candidate and political party shall not be permitted to hold a public meeting on a public road.

(D) YOUR LORDSHIPS may be pleased to direct to the respondents no. 3, 4, 5 and 6 to action must be taken as per law against the officers and person responsible for the meeting held at New C. G. Road, Chandkheda, Ahmedabad on dated: 01/12/2022 to 02/12/2022.

(F) YOUR LORDSHIPS may be pleased to pass any such other and/or further orders that may be thought just and proper, in the facts and circumstances of the present case."

2. Heard Mr. Jucky Lucky Chan, the learned advocate appearing for the petitioner. It is stated that the petitioner herein is a social worker residing at Ahmedabad and nominated as a candidate of 35-Gandhinagar South Assembly Constituency in recent assembly election. The petitioner is an un-organised worker and working in private company. On 1.12.2022 at 11.00 a.m., when the petitioner left for personal work in New CG Road connecting from the Highway, the petitioner saw some persons were completely blocking the public road and a stage of about 70 feet was constructed with the help of Police, which resulted into hardship to the people plying that road. The petitioner herein filed online complaint on 2.12.2022 with regard to the aforesaid to the Election Commission of India about the alleged incident, which is duly produced at Annexure "B". Since the online application has been disposed of by the Election Commission of India, the petitioner preferred comfurther representation dated 5.12.2023 to various State Authorities, which is duly produced at Annexure "C". The petitioner preferred an application under the Right to Information Act,2005 seeking further details on even date. The petitioner has also preferred reminder letter on 27.12.2022 addressed to respondent authorities.

The learned advocate appearing for the petitioner submitted that the same are not answered.

3. Considering the facts of the present case, as stated above and the prayers as prayed for, as referred above, the Prayer 8(B) can be said to be in the nature of public interest wherein the petitioner herein has prayed for direction to respondent authorities to frame law and regulations that any person, organization, candidate and political party cannot be permitted to hold public meeting on public road. Qua prayer 8(C), the petitioner herein has prayed for direction to direct respondent Nos. 3, 4, 5 and 6 to take action as per law against the officers and person responsible for the meeting held at New C.G. Road, Chandkheda, Ahmedabad from 1.12.2022 to 2.12.2022. In the opinion of this Court, the said prayer can be said to be based on theoretical or hypothetical grievance of the petitioner wherein power under Article 226 of the Constitution of India, ought not to be invoked, considering the fact that there is no decision by any of the authorities where the parties have committed illegality, irrationality or procedure impropriety, seeking interference from this Court. Merely praying for such a direction would not entitle a person for grant of such writ, in absence of any documentary evidence produced on record, for this Court to take cognizance. The petitioner herein has preferred representation before the

authorities, which are pending, before the authorities, the same be considered in accordance with law.

4. In view thereof, this Court is not inclined to exercise extra-ordinary jurisdiction under Article 226 of the Constitution of India, reserving liberty in favour of the petitioner to take appropriate steps in accordance with law.

The petition stands disposed of accordingly.

SAJ GEORGE

(VAIBHAVI D. NANAVATI,J)