

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

WPA(P) 404 of 2022

Reserved on: 06.09.2022

Pronounced on: 08.09.2022

Nazia Elahi Khan

...Petitioner

-Vs-

The State of West Bengal and Others

...Respondents

Present:-

Mr. Subhadip Paramanik,
Mr. Shamik Bagchi,
Mr. Tanmay Basu, Advocates
...for the petitioner

Mr. S. N. Mookherjee, Id. AG
Mr. Amitesh Banerjee, Id. Sr. S.C.
Mr. Anirban Ray, Id. GP
Mr. Md. T.M. Siddiqui,
Mr. Nilotpal Chatterjee,
Mr. Yash Singhi, Advocates
...for the State

Mr. Syed Sahid Imam,
Ms. Shaika Khan,
Mr. Mohammad Khairul, Advocates
...for the respondent No. 5

Mr. Abhratosh Majumder, Sr. Advocate
Mr. Sanjay Basu,
Mr. Avra Mazumdar,
Mr. Arnab Basu,
Mr. Piyush Agrawal,
Mr. Utsha Dasgupta,
Ms. Shrivalli Kajaria, Advocates
...for the respondent No. 6

Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE

Prakash Shrivastava, CJ:

1. In this public interest petition, the plea raised by the petitioner is that in Eid Ki Namaz only Muslims can enter mosque in order to offer the prayer but on 3rd of May, 2022, the respondent No. 6, Chief Minister of the State of West Bengal, on the occasion of Eid-Ul-Fitr had entered the religious congregation of the Read Road Namaz organized by the respondent No. 5 and had made political speech. A plea has been raised that the respondent No. 6 being a Hindu should be debarred from entering such religious congregation. In the relief clause, the petitioner has prayed for a direction to prohibit the respondent No. 6 from entering in such religious congregation and delivering the political speeches.

2. We have heard the learned Counsel for the parties.

3. On perusal of the record, we find that no authentic material has been enclosed with the public interest petition to substantiate the plea raised in the petition.

4. Learned Counsel for the respondent No. 5 has pointed out that since 1970 the Chief Ministers of the State are attending Eid-Ul-Fitr and Eid-Ul-Adha prayers and that not only Muslim women but Hindu women also can participate in that prayers. He has shown us the newspaper, Statesman of Calcutta dated October 29, 1973 in support of his submission that the Chief Ministers of the State since long are attending such prayers.

5. That apart, learned Advocate General has also pointed out that the petitioner lacks in bona fide as she had earlier filed public interest petition being WPA(P) 322 of 2022 which was dismissed by order dated

26.07.2022 and WPA(P) 349 of 2022 dismissed by order dated 22.08.2022.

6. Hon'ble Supreme Court in the matter of **Gurpal Singh vs. State of Punjab and Others** reported in **(2005) 5 SCC 136** has held that:

“6. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See *State of Maharashtra v. Prabhu* and *A.P. State Financial Corpn. v. GAR Re-Rolling Mills*) No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See *Buddhi Kota Subbarao (Dr.) v. K. Parasaran*] Today people rush to courts to file cases in profusion under this attractive name of public interest. They must inspire confidence in courts and among the public.”

7. It has further been held that:

“10. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, court must be careful to see that a body of persons or member of the public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well as to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.”

8. Since Counsel for the petitioner has failed to substantiate the plea raised in the petition from any authentic material and also considering the stand of the respondent No. 5 and the material pointed out by the learned Advocate General, we are of the opinion that no case for entertaining the present public interest petition is made out, which is accordingly dismissed.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
08.09.2022

PA(SS)

(A.F.R. / N.A.F.R.)