

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**I.A.No.3 of 2022**

**In**

**W.P.No.34412 of 2022**

**INTERIM ORDER:**

The facts leading to this Interlocutory Application have been recorded by this Court, in the order dated 21.10.2022, in the main case. However, for the purpose of continuity, a brief recap of the facts would be necessary.

2. This Court by an order dated 09.09.2022, in W.P.No.28377 of 2022, had directed the 2<sup>nd</sup> respondent-Director General of Police, to grant permission to the 1<sup>st</sup> petitioner-trust to conduct a Maha Padayatra from Amaravati to Arasavilli for expressing their protest against the proposed establishment of three capitals in the State of Andhra Pradesh. These directions also stipulated that the Padayatra would be conducted subject to the following conditions:

- i) The 1<sup>st</sup> petitioner-trust is permitted to take out the procession only with 600 people, who shall be the farmers.
- ii) The names and details of these 600 persons are to be furnished to the 2<sup>nd</sup> respondent, by the evening of 09.09.2022..
- iii) The procession shall be carried out peacefully without violence, without usage of abusive language or comments against the authorities, who are at the helm of affairs of the State.
- iv) The 1<sup>st</sup> petitioner shall not allow any other person to participate in the procession on their way to Amaravati to Arasavilli.

- v) However, other persons shall be at liberty to express their solidarity to the farmers in a peaceful manner.
- vi) The 2<sup>nd</sup> respondent is to grant permission to the 1<sup>st</sup> petitioner to conduct Padayatra, as per the route map and the schedule submitted by the 1<sup>st</sup> petitioner, imposing reasonable restrictions and conditions.
- vii) The 1<sup>st</sup> petitioner would also be permitted to exhibit Sri Venkateswara Swamy idol in front of the procession and also be allowed to carry on the vehicle, L.E.D. screen and the bio-toilets for the use of the participants of the procession.
- viii) The 1<sup>st</sup> petitioner-trust would be permitted to use hand mike sets during their procession but should not hold any public meetings on their way to Amaravati to Arasavilli.

Subsequently, the 2<sup>nd</sup> respondent-DGP passed an order, dated 09.09.2022, giving permission to conduct the Padayatra.

3. Thereafter, the petitioners have approached this Court by way of the present writ petition with the complaint that the official and unofficial respondents are seeking to scuttle the said Padayatra and that the official respondents are taking a partisan role and are not protecting the participants of the padayatra. The petitioners, apart from mentioning various incidents, had taken the plea that violence had occurred when the Padayatra was going through Rajahmundry town and further progress of the Padayatra would not be possible unless directions are given to the police authorities to ensure appropriate security for the participants of the

Padayatra and to ensure that there is no physical confrontation with any other person opposing the views of the participants in the Padayatra.

4. In the course of arguments, the learned Advocate General appearing for the official respondents had submitted that there were various violations of the directions of this Court, by the organisers of the Padayatra, and that the police authorities were acting strictly in compliance with the directions of this Court dated 09.09.2022.

5. After hearing both sides, this Court had passed the following directions on 21.10.2022.

- i) Paragraph 29 of the order of this Court in W.P.No.28377 of 2022 has to be understood to mean that the procession of the Padayatra cannot consist of more than 600 persons whose details have already been furnished to the 2<sup>nd</sup> respondent.
- ii) Any person seeking to express solidarity, as permitted by this Court, would have to express such solidarity only from the side lines and not by joining the procession.
- iii) The official respondents shall ensure that the procession shall not have any persons except the persons whose details have been given to the 2<sup>nd</sup> respondent.
- iv) This direction would also take care of the apprehension of the petitioners, that anti social elements would infiltrate into their Padayatra hands and cause law and order problem.
- v) The official respondents, while granting any permission to any group expressing a rival opinion, shall ensure that the said procession or meeting of such rival groups shall not be in the

proximity of the procession of the Padayatra, as per the route map approved by the 2<sup>nd</sup> respondent.

- vi) The question of what would be the "proximity" is left to the discretion of the authority on the ground. However, this discretion will not mean that the rival groups will be allowed to physically confront each other.
- vii) Both, the petitioners, as well as the official respondents, shall ensure that not more than four vehicles are allowed as part of the Padayatra.

6. The petitioners have now approached this Court by way of I.A.No.3 of 2022 seeking modification of the orders of this Court passed on 21.10.2022.

7. It may also be noted that the official respondents had moved I.A.No.4 of 2022 in W.P.No.28377 of 2022 for permission to cancel the permission granted by the 2<sup>nd</sup> respondent-DGP, on the ground of violation of the conditions stipulated by this Court as well as the conditions stipulated by the 2<sup>nd</sup> respondent-DGP in his order dated 09.09.2022. A separate order is being passed in the said application.

8. Heard Sri Posani Venkateswarlu, learned Senior Counsel and Sri Unnam Muralidhar Rao, learned counsel appearing for the petitioners; learned Advocate General appearing for official respondents 1 to 17; Sri K.G. Krishna Murthy, learned Senior Counsel appearing for respondent No.18; Sri R.N. Hemendranath Reddy, learned Senior Counsel appearing for respondent No.19; Sri C. Raghu, learned Senior Counsel appearing for

respondent No.20, and Sri V.R.N. Prasanth, learned counsel appearing for respondent No.24.

9. As the unofficial respondents have not yet been served with any notice, it would not be appropriate for this Court to pass final orders in the matter. In the circumstances, an interim order is being passed in the present I.A. only.

10. The respective contentions, raised by the learned counsel for the petitioners, learned Advocate General, Learned Senior Counsels and learned counsel appearing for various parties, are as follows:

11. **The contentions of Sri Unnam Muralidhar Rao are :-**

- a) Article 19 of the Constitution of India permits the petitioners to conduct a Padayatra without having to obtain any permission from any authority. However, since the official respondents were obstructing any activity of the protesting farmers of Amaravati, an application was given to conduct the Padayatra under Section 30 of the Police Act, 1861.
- b) As the said application was not considered initially and was rejected subsequently, the petitioners had approached this Court for grant of appropriate permission and the same was given by this Court.
- c) The Maha Padayatra was conducted strictly in accordance with the conditions set out in the orders of this Court and the permission granted by the 2<sup>nd</sup> respondent-DGP.

- d) The condition that no person, other than 600 persons mentioned in the order of this Court would be allowed to participate in the procession was complied with by the petitioners. The persons, who are said to have joined the procession, by marching along with the Padayatris were the persons who had come on their own volition and that the petitioners have never invited anybody to participate in the Padayatra.
- e) As the police authorities were not ensuring appropriate security for the participants of the Padayatra, the petitioners had approached this Court only for the purpose of obtaining necessary protection for the participants of the Padayatra.
- f) This Court by issuing directions 1, 2, 3 and 7 in the order dated 21.10.2022 had effectively given a handle to the police to scuttle the Padayatra.
- g) One of the conditions set out in the permission granted by the 2<sup>nd</sup> respondent-DGP was the requirement that the participants in the Padayatra do not undertake any confrontation against any persons opposing their view point. This would also mean that there is a duty cast on the police authorities to ensure that persons opposing the view point of the petitioners do not confront the petitioners or the participants in the Padayatra.
- h) The conditions stipulated by this Court in the order dated 09.09.2022 in W.P.No.28377 of 2022 were on account of the rival

submissions made before the Court in the course of arguments and as such the said directions/conditions set out in the order dated 09.09.2022 have to be understood and interpreted in terms of the contentions raised before this Court.

- i) The Court while dictating paragraph 29 of the order dated 09.09.2022 had stipulated that only 600 persons would participate in the Padayatra. At that stage, a submission had been made to the Court that there could be expressions of solidarity by various other persons and the aforesaid stipulation should not be a hurdle for expression of such solidarity. On account of this submission, this Court had added the rider that it would be open for other persons to express their solidarity with the participants of the Padayatra.
- j) A procession can be prohibited only if there is a law to that effect and in the absence of such a law, only reasonable restrictions set out under Article 19(6) of the Constitution of India would be permissible. As none of the restrictions are in accordance with the provisions of Article 19(6), the same would not be binding.
- k) The Padayatra is going through rural areas of the State and as such, a leeway has to be given for the traditional forms of welcome given by the villagers. Some of the traditional forms of welcome are to wash feet of the persons coming into the village, pouring water on the path being taken by such persons, giving harathi etc. Such

forms of welcome are being shown as violations of the directions of this Court by the police authorities.

- l) The last part of the paragraph 29 of the order of this Court dated 09.09.2022 permits outsiders to express their solidarity. The meaning of solidarity includes the right to march along with the participants of the Padayatra. This can be seen from the various news articles reporting that persons across the world are shown to be marching in solidarity with the causes mentioned in these reports. As such marching is one of the methods of expressing solidarity and it would not be appropriate for this Court to direct that solidarity should be expressed from the side lines.
- m) The police authorities under the guise of implementing the directions of this Court dated 21.10.2022, are insisting upon the participants of the padayatra to show I.D Cards, failing which, the said persons are being removed from the Padayatra.
- n) The police authorities, who should have given I.D. Cards to all 600 participants, had distributed only 150 I.D. Cards to some of the participants and due to the non-receipt of I.D. Cards, the remaining 450 persons are unable to show their I.D. Cards and are not being allowed to participate in the Padayatra.
- o) The police, having violated the orders of this Court by issuing only 150 I.D. Cards, are now trying to take advantage of their own lapse and are trying to scuttle the Padayatra.



- p) The organisers of the Padayatra have set up their own rope party, which ensures that the participants in the Padayatra walk only along the side of the road and without obstructing the carriage way. However, it is now being complained that the Padayatra is obstructing the carriage way.
- q) The intention of the Padayatra is to educate the people about the injustice being caused to the farmers of Amaravati and to visit all religious shrines along the way to pray for divine intervention.
- r) As various hurdles and difficulties are being raised by the official respondents, it would be necessary for this Court to modify the order dated 21.10.2022 in the following manner.
- i) Delete directions 1, 2, 3 & 7.
  - ii) Permit cycling of 600 persons who were permitted to participate in the Padayatra, i.e., as and when any one of the identified 600 members are unable to participate on account of any difficulty, another person should be permitted to take place of the identified participant so that the overall number 600 does not exceed.
  - iii) The organisers have identified about 2000 persons who would replace the participants, who are unable to continue with the Padayatra. These 2000 persons are farmers of Amaravati only.
  - iv) This Court should permit anybody to express solidarity by either marching in front of the Padayatra or behind the Padayatra with a clear space between the two sets of people.

- v) The police should be directed to indicate an area where persons expressing their solidarity can park their vehicles and ensure that the said persons park the vehicles in the earmarked area.

12. **The contentions of Sri Posani Venkateswarlu are :-**

- a) Solidarity mentioned in the order dated 09.09.2022 should be given a wider meaning.
- b) A large number of participants are women and every measure should be undertaken to honour such women, who are marching by chanting the slogan "save Amaravati save Andhra Pradesh".
- c) The women who are participating in the procession would be requiring assistance at various points of time either on account of ill-health or need to visit rest rooms, etc. Such requirements are being taken care by the persons expressing solidarity with the participants of the Padayatra and the police are stopping such persons from giving any assistance to the women participants on the ground that the orders of this Court dated 21.10.2022 do not permit any person to mingle with the participants of the Padayatra.
- d) People in the ruling dispensation are either threatening or intimidating the supporters of the Padayatra and necessary directions have to be given to the police to stop such intimidation.

- e) There is a clear distinction between the persons participating in the Padayatra and the persons expressing solidarity by marching either before the Padayatra or after the Padayatra. It must be understood that the people expressing solidarity are only gathering or expressing their solidarity for a few hours during the period when the Padayatra is passing through their area and as such the expression of solidarity in this manner should not be scuttled.
- f) The route map of the Padayatra approved by the 2<sup>nd</sup> respondent-DGP is not on the National Highway and goes through rural roads. As such, no inconvenience is caused to any member of the public. In the circumstances, the contention of the police authorities that they are obstructing traffic and the carriage way, is clearly incorrect.

13. **Contentions of the learned Advocate General are:-**

- i) The petitioners had initially given a representation to the 2<sup>nd</sup> respondent-DGP for permission to conduct the Padayatra on the ground that the participants of the Padayatra proposed to visit various religious shrines and temples to pray for a change in the mind of the persons at the helm of affairs. Paragraphs 12 and 18 to 20 of W.P.No.28377 of 2022 reflect the same submissions.

- ii) Paragraphs 28 and 29 of the order of this Court dated 09.09.2022 would have to be understood in the light of these submissions.
- iii) Further, the Court passed the order after taking into account the past conduct of the petitioners in the Padayatra conducted earlier from Amaravati to Tirupati and taking into account the submissions of the learned Government pleader that huge number of persons had participated in the earlier Padayatra despite restrictions being placed on the number of persons.
- iv) The organisers of the Padayatra have violated the directions of this Court dated 09.09.2022. Though the number of participants in the Padayatra has been restricted to 600 people, persons, other than farmers belonging to Amaravati region, have participated in the Padayatra and the Padayatra has been conducted with the participants indulging in abusive language which is provocative and essentially challenging the persons in power, to react to the statements being made in the course of Padayatra.
- v) Paragraphs 6 to 9 of the application contain intemperate pleadings. The Hon'ble High Court of A.P. in **Badshah Restaurant, Secunderabad vs. Commissioner of Police,**

**Hyderabad**<sup>1</sup>, at paragraph No.34, had held that irresponsible pleadings in a given case itself may disentitle the party for any relief and the Court would be well within its limits to refuse relief to such persons, who do not have respect to the judicial process.

vi) A reading of paragraphs 6 to 9 would show that the petitioners are reluctant to comply with the directions of the order of this Court dated 09.09.2022 and in such a situation, the petitioners would not be entitled to any relief. The judgment of the Hon'ble Supreme Court in **The State of Maharashtra vs. Digambar**<sup>2</sup> (paragraphs 14, 19 and 23) is relied upon.

vii) The learned Advocate General also cited the judgment of the Hon'ble Supreme court in **Amit Sahni (Shaheen Bagh, In re) v. Commissioner of Police and Ors.**,<sup>3</sup> (paragraphs 16 to 18). He contends that while Article 19 (1) (a) & (b) grant the right to assemble peacefully and the right of free speech, the same are subject to reasonable restrictions and the said right would not give a unfettered right to the petitioners to undertake Padayatra in violation of the conditions stipulated in the orders of this Court as well as the permission granted by the 2<sup>nd</sup> respondent-DGP.

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<sup>1</sup> (1998) 3 ALD 346 : (1998) 3 ALT 613

<sup>2</sup> (1995) 4 SCC 683

<sup>3</sup> (2020) 10 SCC 439

- viii) The learned Advocate General would submit that ID cards for all the 600 participants were prepared and kept on a counter at the starting place of the padayatra and only about 150 persons had collected their ID cards. The remaining participants who have not bothered to take their ID cards cannot turn around and blame the Respondent authorities. He would further submit that the police officials had not restricted the proof of identity to only the ID cards given by the respondents and were willing to accept any form of official identification. It was again the participants in the padayatra who refused to show any form of identification and got into arguments with the police officials.
- ix) In view of the various violations of the directions of this Court and in view of the highly disputed facts, the only appropriate course would be to permit the 2<sup>nd</sup> respondent to cancel the earlier permission given on 09.09.2022.

**14. Contentions of Sri K.G. Krishna Murthy, learned Senior Counsel appearing for respondent No.18 are :-**

- i) The application is in the nature of an application for review under Order XLVII Rule 1 of C.P.C. The present application filed under 151 of C.P.C., is not maintainable. Further, none of the conditions set out in Order XLVII Rule 1 C.P.C., have been made out either in the pleadings or in the submissions made on behalf of the petitioners and as such the application itself is not maintainable.

- ii) The direction Nos.1, 2, 3 & 7 are directions given in accordance with the directions given in the order dated 09.09.2022. Any modification of these directions or deletion of these directions would amount to modification of the order dated 09.09.2022. The said order, having become final, cannot be modified in these proceedings and as such this application has to be dismissed.
- iii) Section 30 and Section 30-A of the Police Act are enactments, which answer the description of law under Article 13 of the Constitution of India and the conditions stipulated in the permission granted by the 2<sup>nd</sup> respondent are reasonable restrictions, under Article 19(6) of the Constitution of India, they do not require any interference.

15. **The contentions of Sri R.N. Hemendranath Reddy, learned Senior Counsel appearing for respondent No.19 are:-**

- i) The 19<sup>th</sup> respondent has been made a party without any allegations being made against the said respondent.
- ii) I.A.No.3 of 2022 has not been served on the 19<sup>th</sup> respondent.
- iii) All the arguments raised in the present application are outside the scope of the writ petition itself and as such cannot be considered.
- iv) The affidavit in I.A.No.3 of 2022 has been signed by a person who described himself as an academician, and therefore, he is not a farmer of Amaravati area and as such has no *locus standi* to be a

petitioner in the writ petition or to file the affidavit in support of I.A.No.3 of 2022.

- v) The 1<sup>st</sup> petitioner is described as a trust represented by its secretary. A trust has no juristic personality and cannot approach this Court by way of a writ petition unless it is represented by a trustee. In the present case, it is represented by a secretary and as such the writ petition is not maintainable by the 1<sup>st</sup> petitioner and consequently this application would have to be dismissed.
- vi) The petitioner has not challenged the permission granted by the 2<sup>nd</sup> respondent-DGP dated 09.09.2022. In the absence of such a challenge, the petitioners cannot seek modification of the conditions stipulated in the said order.
- vii) The main writ petition may be considered only after a counter is filed by the 19<sup>th</sup> respondent and time should be granted for such purpose.
- viii) The petitioners while claiming a right to speak up on the basis of Article 19(1)(a) & (b), cannot insist that the respondents are not entitled to put up posters or speak up against the view point of the petitioners.

**16. The contentions of Sri C. Raghu, learned Senior Counsel appearing for respondent No.20, are:-**

- i) The relief No.(h) in the main writ petition is to declare that the unofficial respondents, including respondent No.20, have violated



their oath of affirmation. There is no allegation in relation to respondent No.20 about the alleged violation of oath. In the absence of specific allegations such a relief cannot be sought.

- ii) The allegations, if any, are in paragraph 11 to paragraph 22 of the writ affidavit. These paragraphs do not set out any allegations against the respondents and much less respondent No.20.
- iii) The Hon'ble Supreme Court in the case of **Bharat Singh vs. State of Haryana**<sup>4</sup> had taken the view that there is a distinction between a pleading in the Code of Civil Procedure and a writ petition. Pleadings in Civil proceedings only require the facts to be stated and evidence is not required to be pleaded while in a writ petition not only the facts but also the evidence in proof of such facts have to be pleaded and annexed to it. As there is neither material nor pleadings in this regard, the writ petition would have to be dismissed against respondent No.20.

17. **Sri V.R.N. Prasanth**, learned counsel appearing for respondent No.24, would point out to paragraph-10 of the affidavit filed in support of I.A.No.3 of 2022 to contend that the said paragraph is essentially stating that the petitioners have an unfettered right of speech and no restriction can be placed on such freedom of speech. He submits

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<sup>4</sup> AIR 1998 SC 2181

that Justice Oliver Wendell Holmes in the case of **Schenck vs. United States**<sup>5</sup> held as follows:

“We admit that in many places and in ordinary times the defendants in saying all that was said in the circular would have been within their constitutional rights. But the character of every act depends upon the circumstances in which it is done. *Alkens v. Wilsconsin*, MANU/USSC/0222/1904 : 195 U.S. 194, 205, 206, 25 Sup. Ct. 3, 49L. Ed. 154. The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic. It does not even protect a man from an injunction against uttering words that may have all the effect of force. *Gompers v. Buck’s Stove and Range Co.*, MANU/USSC/0140/1911 : 221 U.S. 418, 439, 31 Sup. Ct. 492, 55 L. ed. 797, 34 L. R. A. (N.S.) 874. The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that Congress has a right to prevent. It is a question of proximity and degree.”

### **Consideration of the Court**

18. The petitioners had approached this Court by way of W.P.No.28377 of 2022 for obtaining permission to conduct a Padayatra to espouse their cause. This Court by an order dated 09.09.2022 had directed the 2<sup>nd</sup> respondent-DGP to grant necessary permission for

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<sup>5</sup> 249 U.S. 47(1919)

conduct of Padayatra from Amaravati to Arasavilli. In pursuance of this direction, the DGP had granted permission by an order dated 09.09.2022.

19. Neither the order of this Court dated 09.09.2022 in W.P.No.28377 of 2022 nor the permission granted by the 2<sup>nd</sup> respondent-DGP dated 09.09.2022 have been challenged. In the circumstances, the order of this Court dated 09.09.2022 has become final and binding on the petitioners as well as the official respondents. Similarly, in the absence of any challenge to the order of the 2<sup>nd</sup> respondent-DGP dated 09.09.2022, this Court would not be looking at any modification of the said order.

20. The petitioners have approached this Court by way of the present writ petition with the complaint that the Padayatra is not able to progress on account of the physical confrontation between the participants of the Padayatra and the persons who are in opposition to the view point of the petitioners. In the course of submissions, the official respondents took the stand that the petitioners while insisting upon the order of this Court being implemented, cannot violate the directions and conditions stipulated by this Court and point out about 72 violations said to have been committed by the organisers/participants of the Padayatra. The primary objection raised by the official respondents was that thousands of people are being allowed to join the Padayatra despite the stipulation of this Court that only 600 identified farmers from Amaravati area can participate in the Padayatra.

21. In those circumstances, this Court by an order dated 21.10.2022, had passed the directions set out above.

22. The petitioners have now approached this Court again by way of the present application contending that the directions of this Court dated 09.09.2022 require certain modifications. The petitioners have also raised the contention that this Court by passing the above directions, on 21.10.2022, had effectively modified the earlier orders dated 09.09.2022 and these modifications have resulted in giving a handle to the police authorities to break up the Padayatra.

23. Various counsel appearing for the unofficial respondents have raised issues relating to the maintainability of the writ petition itself and on the maintainability of the interlocutory application, which is the subject matter of this order. This Court does not propose to go into those issues at this stage and the same would be considered at the time of final hearing of the writ petition after notices are sent to the unofficial respondents and pleadings are completed.

24. The petitioners contend that Article 19 (1) (a) (b) and (c) grant an unfettered right to the petitioners to conduct a Padayatra and the only restrictions that can be imposed on the petitioners would be reasonable restrictions set out in Article 19 (6) of the Constitution of India. Any restrictions which are not enumerated in Article 19(6) cannot be placed on the petitioners and the present order of this Court dated 21.10.2022 has effectively placed restrictions, which are not permissible

under Article 19(1)(a) and (b), and would amount to modification of the earlier orders of this Court dated 09.09.2022 and the same is not warranted.

25. Before advertng to these contentions, it is also necessary to record that the learned counsel for the respondents had pointed out to the pleadings in paragraphs 6 to 9 in the affidavit filed in support of this application and would submit that these pleadings are intemperate and offensive. In reply, Sri Unnam Muralidhar Rao, learned counsel appearing for the petitioners has tendered his apology and requested that the said pleadings be expunged from the record. The said pleadings are hereby expunged from the record.

26. The right of citizens to conduct processions has been considered by the Apex Court in various judgments. It would suffice to mention the judgments of the Hon'ble Supreme Court in **Himat Lal K. Shah vs. Commissioner of Police Ahmedabad and Anr.**,<sup>6</sup> and **Amit Sahni (Shaheen Bagh, In re) vs. Commissioner of Police and Ors.** (supra). In the case of **Himat Lal K. Shah vs. Commissioner of Police Ahmedabad and Anr.**, a constitution Bench of the Hon'ble Supreme Court went into the question of the power of the State to regulate assemblies and processions, in the light of the provisions of Sections 33 (1)(g) (o) of the Bombay Police Act, 1951. Though the

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<sup>6</sup> (1973) 1 SCC 227

language of this provision is not *in pari materia* with the language of the Indian Police Act, 1861 the purport of both the sections are on similar lines. The majority judgment was given by three learned judges with the other two learned judges delivering separate concurrent judgments.

27. The majority judgment of the constitution bench after reviewing the law prior to the constitution and the law after the constitution had come into force, had held that in view of the judgement of the hon'ble Supreme Court, in **Babulal parate vs. State of Maharashtra**<sup>7</sup>, the right to conduct processions is part of the right to assemble peacefully contained in Article 19(1) (a) of the Constitution of India."

28. Having held so, the majority judgment also made it clear that – "there is nothing wrong in requiring previous permission to be obtained before holding a public meeting on a public street, for the right, which flows from Article 19 (1) (b) is not a right to hold a meeting at any place and time. It is a right which can be regulated in the interest of all so that all can enjoy the right."

29. The Constitution Bench also went on to strike down Rule 7 authorising the Commissioner of Police/authorised officer to grant or reject permission for conduct of a meeting without any guidelines.

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<sup>7</sup> AIR 1961 SC 884

30. In view of the above, the right conferred under Article 19(1)(a) and (b) of the Constitution of India is subject to the restrictions contained in Article 19(6) of the Constitution of India apart from authorising the appropriate authority to impose reasonable restrictions in the interest of public order. The following passages in the said judgment make it clear:

**32.** This takes us to Points (2) and (3) mentioned above. It is not surprising that the Constitution makers conferred a fundamental right on all citizens "to assemble peaceably and without arms". While prior to the coming into force of the Constitution the right to assemble could have been abridged or taken away by law, now that cannot be done except by imposing reasonable restrictions within Article 19(3). But it is urged that the right to assemble does not mean that that right can be exercised at any and every place. This Court held in *Railway Board v. Narinjan Singh* [(1969) 1 SCC 502 : (1969) 3 SCR 548, 554] that there is no fundamental right for anyone to hold meetings in Government premises. It was observed:

"The fact that the citizens of this country have freedom of speech, freedom to assemble peaceably and freedom to form associations or unions does not mean that they can exercise those freedoms in whatever place they please."

**33.** This is true but nevertheless the State cannot by law abridge or take away the right of assembly by prohibiting assembly on every public street or public place. The State can only make regulations in aid of the right of assembly of each citizen and can only impose reasonable restrictions in the interest of public order.

**34.** This Court in *Babulal Parate v. State of Maharashtra* [AIR 1961 SC 884 : (1961) 3 SCR 423, 438 : (1961) 1 SCJ 554: (1961) 2 Cr LJ 10] rightly observed:

“The right of citizens to take out processions or to hold public meetings flows from the right in Article 19(1)(b) to assemble peaceably and without arms and the right to move anywhere in the territory of India.”

31. The decision of this Court dated 09.08.2022 and the consequential permission granted by the 2<sup>nd</sup> respondent-DGP, are in accord with the above principle of law enunciated by the Constitution Bench of the Hon'ble Supreme Court of India. This Court, keeping in mind the fact that the Padayatra is being conducted under the directions of this Court, had placed conditions on the manner in which the Padayatra is to be conducted to ensure that there is no misuse of the permission given by this Court. The conditions stipulated in the order of this court, dated 09.09.2022, are reasonable restrictions placed for the conduct of a peaceful padayatra. The conditions placed by the 2<sup>nd</sup> respondent DGP are in line with the directions of this court.

32. The contention of the petitioners is that the directions issued by this Court on 21.10.2022 are effectively modifying the earlier orders of this Court dated 09.09.2022. A perusal of the directions given by this Court on 21.10.2022 would show that the directions 1, 2, 3 & 7 are directions to the official respondents and to the petitioners to comply with the earlier directions of this Court dated 09.09.2022. The contention that



direction No.2 restricts the right of a person to express his solidarity is not correct. This court, in paragraph 28 and 29 of the order of 09.09.2022 had restricted the number of persons who can participate in the padayatra to 600 farmers of Amaravati. The subsequent permission for other persons to express solidarity does not in any manner detract from the initial stipulation to restrict the number to 600. The question of whether a person can express solidarity by marching along with the padayatris, is redundant, in the light of the directions of this court, in it's order dated 09.09.2022. Direction No. 2 was for a person to express solidarity in the sidelines and not by joining the procession. Clearly there is no restriction on any person, regarding the manner in which solidarity can be expressed. The only restriction placed by this Court was that such an expression of solidarity cannot be expressed by joining the padayatra.

33. In the event of any ambiguity in this respect, it is made clear that any person can express solidarity in any manner he / she chooses, provided the said expression of solidarity does not contravene any of the directions given in the order dated 09.09.2022 including the stipulation that the padayatra will be conducted only by the 600 identified farmers mentioned in the order of 09.09.2022.

34. As far as directions 4, 5 and 6 are concerned, direction No.4 makes it clear that the direction Nos. 2 and 3 would also take care of the apprehension of the petitioners that anti social elements would infiltrate into their Padayatra.

35. Directions 5 and 6 are directions given for the purpose of ensuring adequate security for the petitioners and is, in a manner, an aid for implementing the directions of this Court dated 09.09.2022 for conduct of a peaceful Padayatra.

36. The contentions raised by the petitioners that the directions given by this Court in the order dated 09.09.2022 are not practicable and require modification for the purpose of ensuring a smooth functioning of the Padayatra, is an issue which cannot be gone into by this Court. The order of this Court dated 09.09.2022 was passed in W.P.No.28377 of 2022 which has been disposed of. This order has also become final as the petitioners have not filed any appeal against the said order. In such circumstances, this Court cannot modify the said judgment by passing an order in another writ petition. Further, this writ petition has been filed for seeking protection to continue the padayatra on the basis of the orders of this court dated 09.09.2022. The prayer to relax the conditions in the earlier order is beyond the scope of this Writ petition.

37. The modifications sought by the petitioners in the present application requiring additional directions to be given to the police, in contradiction to the orders of this Court dated 09.09.2022, is equally not permissible. Any orders passed, as required by the petitioners, would result in a modification of the earlier order dated 09.09.2022 which is not permissible as held above.

38. A perusal of the order of this court, dated 09.09.2022, would show that the 600 persons who can participate in the padayatra were to be the 600 farmers of Amaravati, whose details have been furnished to the 2<sup>nd</sup> respondent DGP on 09.09.2022 itself. The judgement directed that the persons whose details are given to the 2<sup>nd</sup> respondent DGP by the evening of 9<sup>th</sup> September, alone would be permitted to participate in the Padayatra. There is no provision in the said judgement to substitute these persons with any other person. Any direction to permit such changes would amount to a modification of the order which is not permissible. Similarly, the request to permit the persons to participate in the padayatra, by cycling, would also amount to a modification of the directions of this court and would not be permissible. It is further clarified that the order of this court dated 09.09.2022 had not specified anywhere that only the identification cards issued by the respondents is the sole method of demonstrating their identities. It is always open to the participants to demonstrate their identity in any other manner by producing official identification documents. In any event, the 2<sup>nd</sup> respondent shall offer the identity cards, which have not been taken earlier, again to the organisers/participants of the padayatra, by setting up a counter at the place where the participants of the padayatra are presently camping.

39. In these circumstances, this Court does not find any reason to modify the directions of this Court dated 21.10.2022 and this

application, subject to the observations and directions given above, is dismissed.

1<sup>st</sup> November, 2022  
Js.

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**R. RAGHUNANDAN RAO, J.**

**HON'BLE SRI JUSTICE R. RAGHUNANDAN RAO**

**I.A.No.3 of 2022**  
**in**  
**W.P.No.34412 of 2022**

**1<sup>st</sup> November, 2022**

**Js.**