

**HIGH COURT OF TRIPURA  
AGARTALA**

WA No.164/2019

Tripura People's Front (TPF).

..... Appellant.

Vs.

The State of Tripura and Ors.

..... Respondents.

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For Appellant(s) : Mr. Manish Goswami, Advocate,  
Mr. M Debbarma, Advocate.

For Respondent(s) : Mr. A K Bhowmik, Advocate General,  
Mr. D Bhattacharya, Govt. Advocate,  
Mr. Karnajit De, Addl. Govt. Advocate.

Whether fit for reporting : Yes.

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**HON'BLE THE CHIEF JUSTICE MR. SANJAY KAROL  
HON'BLE MR. JUSTICE S TALAPATRA**

**JUDGMENT(ORAL)**

**07/8/2019**

**(Sanjay Karol, C.J.)**

The Apex Court in **Ramlila Maidan Incident, in Re;(2012)5 SCC 1(2 Judge Bench)** has extensively dealt with the law relating to the seven liberties enshrined in Part III of the Constitution of India.

[2] The right, be it of freedom of speech and expression or peaceful assembly, can be abridged only in accordance with the procedure established by law. The reasonability of the restriction in exercising such a right is a matter which squarely falls within the power of judicial review of this Court.

[3] It is a settled position of law that there is a direct and more implied responsibility upon the government to function openly and in public interest. The right to information itself emerges from the right to freedom of speech and expression. Further, unlike an individual, State owns a multi-dimensional responsibility. It has to maintain and ensure security of the State, as well as social and public order. It has to give utmost regard to the right to freedom of speech and expression, which a citizen or a group of citizens may assert. So also, *inter alia*, right to assemble peacefully. The State also has a duty to provide security and protection to the persons who wish to exercise such right of assembly, peaceful in nature.

[4] Also there is a distinction with regard to 'restriction' and 'prohibition' which expressions cannot be said to be interchangeable as stands settled by Courts. Wherever a 'prohibition' is imposed, besides satisfying all the tests of a reasonable 'restriction', it must also satisfy the requirement that any lesser alternative would be inadequate.

[5] Furthermore, whether a restriction, in effect, amounts to a total prohibition or not, is a question of fact which has to be determined with regard to the facts and circumstances of each case.

[6] We notice that in the instant case, restriction in the exercise of Constitutional right of freedom of speech and expression as also assembling peacefully, stands regulated by

virtue of the provisions of Tripura Police Act, 2007 and more specifically, Section 78 which reads as under :

“78. Regulation of public assemblies and processions :

(1) The District Superintendent of Police or an officer not below the rank of Assistant/Deputy Superintendent of Police may, where necessary, direct the conduct of all assemblies and processions on any public road, street or thoroughfare, and prescribe the routes by which and the time at which such procession may pass.

(2) It shall be duty of any person intending to organize a procession on any road, street or thoroughfare, or to convene an assembly at any public place, to give intimation in writing to the officer in charge of the concerned Police Station.

**(3) The District Superintendent or any officer not below the rank of Assistant/Deputy Superintendent of Police, on receipt of such intimation or otherwise, and upon being satisfied that such an assembly or procession, if allowed without due control and regulation, is likely to cause a breach of peace, may prescribe necessary conditions including making provisions for satisfactory regulatory arrangements, on which alone such assembly or procession may take. Under special circumstances to be recorded in writing, the concerned officer may also prohibit the assembly or procession in public interest. All orders and directions should be given within 48 hours of receipt of intimation, as far as possible.”**

[7] As canvassed by Mr. Manish Goswami, learned counsel for the appellant, we need not dilate upon the niceties of interpretation of the said provision, more so, in view of the nature of order which we propose to pass.

[8] In the instant case, the writ-petitioners-appellant, intended to celebrate "the International Day of World Indigenous People's Day, 2019" by organizing a meeting at the Swami Vivekananda Stadium (maidan), Agartala on the 9<sup>th</sup> August, 2019. An application was filed with the authority. Vide communication dated 17<sup>th</sup> July, 2019, the Tripura Sports Council, perhaps the authority which owns or regulates the activity on the said maidan, asked the petitioner to seek permission from the Superintendent of Police, Agartala.

[9] Noticeably, on 18<sup>th</sup> May, 2019 itself, petitioners had already made such request with the Sub-Divisional Police Officer, Agartala, Tripura(West) which stood rejected vide communication dated 18<sup>th</sup> July, 2019 in the following terms:

"GOVERNMENT OF TRIPURA  
OFFICE OF THE SUB-DIVISIONAL POLICE OFFICER  
(SADAR)  
AGARTALA :: WEST TRIPURA

No.3518-22/SDPO(S)/AGT/2018      Dated 18/07/2019

To  
Sri Kantilal Debbarma  
Secretary General  
Tripura Peoples Front  
Tpf.official2014@gmail.com/patal.jamatia@gmail.com

Subject :- Regret to application seeking permission for observing "the International Day of World Indigenous People's Day" on 9<sup>th</sup> August, 2019 at the Stable Ground.

Sir,

Please refer to your letter vide no.F.7(V)/TPF-P/Cor/18 dated 18/5/2019 on the subject captioned above. Your request for observing "the International Day of World Indigenous People's Day" on 9<sup>th</sup> August, 2019 at the Stable Ground has been examined and the same

is regretted in view of apprehension of breach of peace on the basis of reliable inputs.

Further, it is suggested to hold the said programme at Khumlung as alternative venue. In this view, you are requested to approach SDPO, Jirania to hold the said programme at Khumlung subject to written permission issued by SDPO Jirania.

Yours sincerely,

Sd/

Sub-Divisional Police Officer  
Sadar  
Agartala, West Tripura."

[10] Aggrieved thereof, the petitioners filed a writ petition which stood dismissed *in limine* vide order dated 29<sup>th</sup> July, 2019 passed by learned Single Judge in **WP(C) No.872 of 2019** titled as **Tripura Peoples Front(TPF) Vs. State of Tripura and Ors.**

[11] We find the core issue raised in the present appeal, as we are informed, so canvassed before the learned Single Judge, has not been considered, examined or dealt with in the impugned judgment.

[12] Considering the totality of the circumstances, we are of the considered view that the communication of rejection itself does not meet the test of the conditions imposed under sub-Section (3) of Section 78 of the Tripura Police Act, for even from the writ record, we cannot infer the same. No counter stands filed by the State.

[13] As such, on this short issue alone, we quash the communication dated 18<sup>th</sup> July, 2019 issued by Sub-Divisional

Police Officer, Sadar Agartala, Tripura(West) (*Annexure P-71*) with a direction to the Superintendent of Police(west)(*respondent No.3 herein*) to consider the petitioners' application afresh and pass an appropriate order, in accordance with law and more specifically, in accordance with the settled principles of law, as laid down in ***Ramlila(supra)*** and ***Mazdoor Kisan Shakti Sangathan v. Union of India and Anr., AIR 2018 SC 3476*** (2 Judge Bench).

[14] The petitioners-appellant shall appear before the said respondent today itself and we expect the said appropriate authority to pass an appropriate order positively before 1 o'clock tomorrow *i.e.* (8<sup>th</sup> August, 2019). The possibility of an alternate site, if any, and so desired, may also be considered.

[15] It shall be open for the appellant to place additional material, if so required, positively during the course of the day. Equally, it shall be open for the Superintendent of Police(west) or any authorised person to collect fresh material, if so required.

[16] Mr. A K Bhowmik, learned Advocate General, with vehemence has raised the issue of right and entitlement of the writ petitioners-appellant, in seeking permission under law, which question is also left open to be considered and decided by the said appropriate authority.

[17] With the aforesaid directions, petition stands disposed of. Pending application(s), if any, also stands disposed of.

[18] Copies of this judgment be furnished to the learned counsel for both the parties during the course of the day.

**JUDGE**

**(SANJAY KAROL), CJ**

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HIGH COURT OF TRIPURA



सत्यमेव जयते