

September 18, 2025
Sl. No.13 & 14
Court No.8
s.biswas

WPA(P) 503 of 2023
With
CAN 1 of 2025

Purulia Chamber of Trade and Industry
vs.
The State of West Bengal and others

WITH

WPA(P) 510 of 2023

Dr. Goutam Mahato
vs.
The State of West Bengal and others

Mr. Abhratosh Majumdar, Sr. Adv.
Mr. Sayan Sinha
Mr. Kousheyo Roy
... for the petitioner in WPA(P) 503 of 2023
Mr. Samrat Sen, AAAG
Mr. Saikat Chatterjee
Ms. Manali Ali
... for the State in WPA(P) 503 of 2023
Mr. Pawan Kr. Gupta
Mr. Sougata Mitra
Mr. Nikhil Kr. Gupta
Ms. Soma Chakraborty
Mr. Subhadeep Maitra
Mr. Santanu Sett
Ms. Sofia Nesar
... for the respondent no.13 in WPA(P) 503 of 2023
Mr. Sanajit Kumar Ghosh
Ms. Sarda Sha
... for the respondent nos.9-12/Railway authority
in both matters
Mr. Sk. Md. Galib
Ms. Sujata Mukherjee
... for the State in WPA(P) 510 of 2023
Mr. Kallol Basu
Mr. Anindya Bose
Mr. Subhayu Das
... for the respondent no.10 in WPA(P) 510 of 2023

1. Affidavit of service filed by the petitioner is taken on record.
2. Parties are represented through their respective learned counsel.
3. Parties are heard on CAN 1 of 2025. Learned counsel for the petitioner at the outset submits that he is pressing relief no.(j), which reads thus:

“j. An order of Injunction restraining the said Adbasi Kudmi Samaj and their men agents, associates, members, from organizing the “Black Day” across various villages in Purulia and also the entire State of West Bengal and also from organizing the Rail Blockade/Rail Teka in the District of Purulia and also in the entire State of West Bengal in any manner whatsoever;”

4. It is pointed out that a Facebook post (Annexure P/3) shows that the respondent Adbasi Kudmi Samaj (hereinafter referred to as ‘Samaj’) has decided to observe this September as ‘Black Day’ and 20th September, 2025 onwards as Railway blockade for indefinite period. By taking this court to the previous detailed order passed in this matter on 19.09.2023, learned counsel for the petitioner submits that the Samaj filed a PIL seeking declaration that they be declared in reserved community. The said PIL was dismissed by reserving liberty to avail appropriate remedy. Thereafter in September 2022, September 2023 and September 2024 also similar Rail and Road Roko Movement was organized, which compelled the petitioner to approach this court for granting of interim relief. By a detailed interim order dated 19.09.2023, the court issued certain directions. The same directions may be issued on this

occasion, because the nature and reason of the movement is same.

5. Mr. Samrat Sen, learned AAAG appearing for the State and Mr. Sanajit Kumar Ghosh, learned advocate appearing for the railway administration supported the said contention and submit that similar interim order dated 19.09.2023 may be passed.
6. Mr. Pawan Kumar Gupta, learned advocate for the Samaj brought a communication being Ref. No.AKS/C-29/25 dated 12.09.2025 sent by the Samaj to the Sub-Divisional Officer (Sadar), Purulia, and urged that the Samaj has already undertaken that they will not breach law and order and therefore, no interim order is necessary. The right to protest is a fundamental right. The head of the State wayback in 2018 gave assurance to the Samaj that its name will be included in reserved category, but till date nothing happened and therefore having left with no option they decided to protest and such protest will not cause any inconvenience to the general public and the administration.
7. No other point is pressed by the learned counsel for the parties.
8. We have heard the parties at length on the question of interim protection. This court on 19.09.2023 considered an issue where a Rail and

Road Roko Movement was announced for 20th September, 2023. This court poignantly recorded as under:

- “2. The proposed agitation which has been planned by the said organisation on 20th September, 2023 onwards would have a severe impact on the movement of the public as well as other activities particularly in four districts of West Bengal, namely, Bankura, Jhargram, Purulia and West Midnapore. Since the proposal is to block the movement of trains, several of which are plying inter-States, the agitation will have an impact in the states of Jharkhand, parts of State of Orissa and parts of State of Chattishgarh. The demand of the said organisation and its office bearers is for including the Kudmi community in the Scheduled Tribe list. Earlier a public interest litigation was filed before this Court seeking for such direction and the Court pointed out that in a public interest litigation Constitutional Court exercising jurisdiction under Article 226 of the Constitution of India cannot issue any direction for including any community in the list of Scheduled Tribe and if at all the organisation or members of the community are aggrieved, their grievance has to be redressed before the appropriate forum. In these writ petitions the focus is on the effect of proposed agitation on the entire society.
3. It is pointed out that similar protest was conducted by the said organisation and its members in September 2022 and April 2023 and it is stated that Indian Railways had

suffered a monetary loss of Rs.60 crore apart from huge loss to the public exchequer and untold hardship to the citizens of those districts, who were directly affected and many of whom were indirectly affected on account of the said agitation. In anticipation of the agitation, 39 trains had been cancelled by the South Eastern Railways. A list of 39 trains has been published by the South-Eastern Railway. What was happening in the past agitation which had been conducted in September 2022 and April 2023 has undoubtedly not redressed the grievance of the Kudmi Samaj or its members. Therefore, in such a situation would it be justifiable on the part of the Kudmi Samaj and its members to resort to one more such agitation that too for an indefinite period. At this juncture, it would be beneficial to take note of the decisions of the Hon'ble Supreme Court in the case of **Communist Party of India (M) Versus Bharat Kumar [(1998) 1 SCC 201]**. The challenge before the Hon'ble Supreme Court was to a decision of the High Court of Kerala in the case of **Bharat Kumar K. Palich & Anr. Versus State of Kerala & Ors. O.Ps. Nos.7551 of 1994 dated 28th July, 1997**. The Hon'ble Supreme Court held that the judgment of High Court of Kerala does not call for any interference. It was pointed out by the Hon'ble Supreme Court that it was satisfied with the distinction drawn by the High Court between a "Bandh" and a call for general strike or "Hartal" is well made out with

reference to the effect of "Bandh" on the fundamental rights of other citizens.

- 6. The petitioners are very clear in their mind that from they are not opposing any peaceful forum of protest but they are concerned about the large-scale impact that the agitation would be on the proposed call given by the association said to commence from 20th September, 2023.*
- 9. Having noted the above legal position, all that can be said is that the protest, which has been scheduled to be held from 20th September, 2023 is illegal and unconstitutional. The said Samaj or the members of the Samaj have no vested right in blocking the roadways and railways causing inconvenience to several citizens not only confined to the four districts of West Bengal but also the three neighbouring States.*
- 10. As pointed out earlier, the two agitations, which the said Samaj and its members had conducted in September, 2022 and April, 2023 had not given them the desired result for which they had planned and conducted the protest. Therefore, the short question would be should they be permitted to do so for the third occasion that too, for an indefinite period?*
- 11. Our prima facie view is that the Samaj and its members should not be permitted to hold the public at ransom by calling for an indefinite protest commencing from 20th September, 2023. Having held so, the issue would be how best the situation has to be monitored.*

12. *The learned Advocate General, on instruction, would submit that adequate measures have been adopted and additional forces have been requisitioned and the situation is seriously being taken into consideration so that no untoward incident happens. However, the endeavour of the State should be to ensure that the roads and railways are not blocked. It is a matter of great concern that the South-Eastern Railway had to cancel 39 trains. Imagine the plight of people, who had booked their journey in those trains. Some of whom may have to travel for medical emergencies or for other exigencies relating to employment, education, etc.*
13. *Thus, we are of the prima facie view that the Samaj and its members cannot hold innocent citizens to ransom by seeking to hold an indefinite protest by blocking the railways and the roadways.*
14. *In the light of the above, we direct the State Government to deploy additional forces including specialised forces and if necessary, forces from the neighbouring States of Jharkhand, Orissa and Chattisgarh may also be requisitioned by the State Government so that the influx of the protesters to the core area of the protest is prevented. Checks and balances need to be maintained. The roads leading to the proposed site, where the protest is being scheduled to be conducted can be closely monitored and the flow of traffic can prevented/restricted, unauthorised use of vehicles, goods carriages for transportation of passengers shall be prevented and / or*

other steps incidental to the same shall be adopted by the State Government.

15. The Railway Protection Force shall also be sensitised and if additional deployment is required in the railway stations, the same shall also be requisitioned.

16. Apart from taking note of the above measure for controlling the law and order situation, the protesters need to be sensitised as to what is the forum before which they will have to agitate their grievance.

17. As mentioned earlier, this Court had declined to entertain a prayer for declaring the particular community as a Scheduled Tribe Community by way of a public interest litigation by observing that the relief has to be sought before an appropriate forum. This aspect of the matter should be known to the people, who joined the protest. Many of whom may not be fully aware about the implications of the protest and the consequences thereof. This can be done by way of public address system or by the use of social media. The leaders of the Samaj can be called for discussion and they may be impressed that such form of protest, as proposed by them, would cause immense hardship to innocent citizens apart from causing huge loss to the State exchequer.

18. All effective steps shall be taken by the State Government and, if in their opinion, additional deployment of force is required, they can also requisition the Central Government for deployment of Central forces so as to work in tandem with the State forces to ensure that the public of the four

districts as well as the neighbouring States are in no manner put to difficulty or inconvenience on account of the protest announced to be conducted from 20th September, 2023.”

9. In the opinion of this court, there is no such changed circumstance which compels us to take a different view than the view taken by this court on 19.09.2023. Thus, as interim protection we order that all such steps which were directed to be taken in the order dated 19.09.2023, shall also be taken this time for the proposed Rail and Road Roko Movement. It shall be duty of the respondent authorities to comply with the direction already contained in the order dated 19.09.2023. Similarly, it shall be duty of the Samaj to act in accordance with their undertaking given in the communication dated 12.09.2025, which is reproduced hereinbelow:

“In reply to your said memo, let me assure you that the proposed rail and road blockage to be observed by the said samaj will not make any harm to medical and emergency services by breaking the law and order situation and violate fundamental right of innocent citizen or otherwise infringing the constitutional right of ordinary citizens.

The proposed agitation and/or rally will in no way cause immense hardship to the general public and movement of vehicle carrying essential and other commodities on or

before or during the Durga Puja festival, 2025. The said samaj further assured that they will not commit anything, which has a direct impact on economy and shall maintain smooth and convenient movement of normal life without obstructing essential services and without infringing constitutional right of citizen. We assure that the said samaj in continuance of their rally or agitation shall extend all cooperation to the administration so that normal human life may not hamper.”

10. The application being CAN 1 of 2025 in WPA(P) 503 of 2023 is disposed of.
11. List the matter in the second half of January, 2026.

(Sujoy Paul, J.)

(Smita Das De, J.)