

## **The right to hold public meetings on public streets**

- Shefali Malhotra and Priyveer Singh Sidhu

In its decisions dated 15 September, 1972, the Gujarat High Court, before a five judge bench in the case of **Himat Lal K. Shah vs Commissioner Of Police** (*AIR 1973 SC 87: (1973) 1 SCC 227*) held that Rule Nos. 7 to 11, 14 and 15 of the *Rules for Processions and Public Meetings* and Sections 33(o) read with 33(y) of the Bombay Police Act, 1951 were intra vires the subsection under which they were framed and that they did not violate the fundamental rights of the petitioner under Art. 19(1) (a) or (b).

### **Facts**

The petition was filed due to rejection of application to hold public meeting by the Police Commissioner, Ahmedabad, for permission to hold a meeting in connection with the All India students' strike sponsored by All India Students Federation. This permission was refused because the "application was not sent five days before the day of the meeting as required by notification of the Commissioner of Police". The appellant had also applied for permission to hold another public meeting. The Deputy Police Commissioner informed him that the permission "cannot be granted inasmuch as a meeting was held under a similar permission whereafter certain elements had indulged in rioting and caused mischief to private and public properties, regarding which a case also has been registered". He was also informed that "in view of the present position, it is not possible to grant such permission in order to maintain law and order".

### **Judgment**

The court held that Section 33(1)(o) of the Bombay Police Act, 1951, does not violate Article 19(1)(b). On the other hand, it enables the Commissioner to make rules to regulate the assemblies and processions. In the absence of such rules, it would be practically impossible to enjoy their rights of passage and right to assembly, simultaneously. Hence, Section 33(1) (o) may be said to have been enacted in aid of the rights under Article 19(1) (a) and 19(1)(b) of the Constitution.

Further, the Court held Rule 7 of the Rules for Processions and Public Meetings to be invalid, as it is so worded as to enable the Commissioner, without the necessity of giving reasons, to give or refuse permission to hold a public meeting at a place falling within the definition of 'a street'.

## **Analysis**

The Constitution makers conferred a fundamental right on all citizens 'to assemble peaceably and without arms' and that cannot be done except by imposing reasonable restrictions within Article 19(3) of the Constitution. But the right to assemble, as like any other right, cannot be exercised in isolation and right of others are to be equally taken care of. Hence, it does not mean that the right can be exercised at any and every place.

Nevertheless the State can only make rules and regulations for conducting and controlling the right of assembly and reasonable restrictions can be imposed in the interest of public order. But nothing can abridge or take away the right of assembly by prohibiting assembly on every Public Street or public place.