

CONSTITUTION OF INDIA

Himat Lal K. Shah

Vs.

Commissioner of Police

Equivalent citations: 1973 AIR 87, 1973 SCR (2) 266

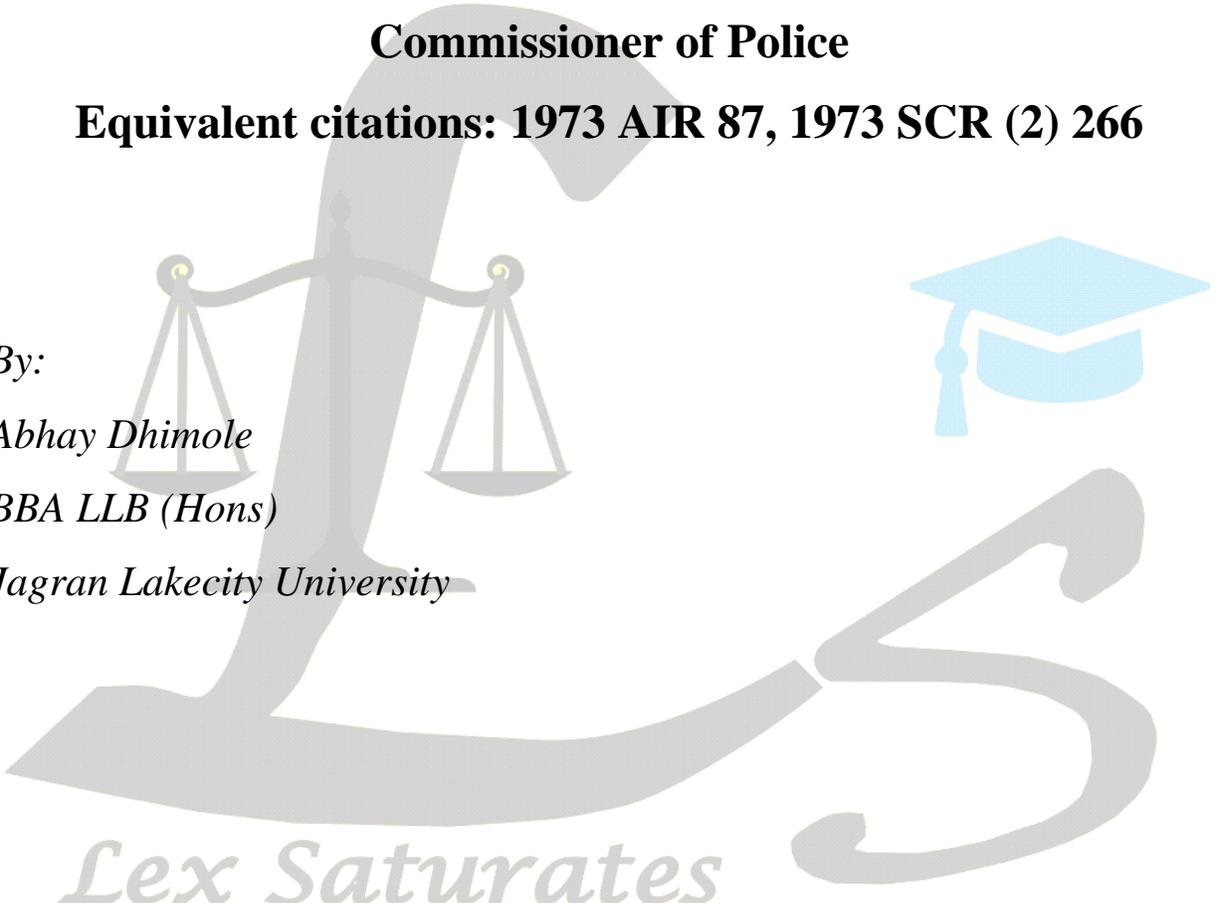
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PARTIES INVOLVED

Petitioner : Himat Lal K. Shah

Vs

**Respondent : COMMISSIONER OF POLICE,
AHMEDABAD & ANR.**

DATE OF JUDGEMENT

15/09/1972

BENCH:

SIKRI, S.M. (CJ)

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SIKRI, S.M. (CJ)

RAY, A.N.

REDDY, P. JAGANMOHAN

MATHEW, KUTTYIL KURIEN

BEG, M. HAMEEDULLAH

INTRODUCTION:

The appellant whose application for permission to hold a public meeting on a public street was rejected contended in a writ petition in the High Court, (1) that the rules framed by the first respondent under s.33(1) (O) of the Bombay Police Act, 1951, were ultra vires in that the sub-section does not authorize framing of rules requiring prior permission for holding meetings and (2) that the sub-section and the rules were violative of the fundamental rights guaranteed under art.19(1) (a) and (b) of the constitution. The High Court dismissed the petition.

ISSUE:

1. whether a common citizen has right to hold public meeting on streets and the extent of the state to regulate this right ?

LEGAL PROVISION:

[Article 19\(1\)\(a\) in The Constitution Of India 1949](#)

[The Police Act, 1888](#)

[The Constitution Of India 1949](#)

[Section 3 in The Police Act, 1888](#)

[Article 19\(1\)\(b\) in The Constitution Of India 1949](#)

LEGAL PROVISIONS:

[Dr.Ambedkar Mandran-Thiruchuli vs The Superintendent Of Police on 13 April, 2015](#)

[S.Sivabalan vs The Deputy Superintendent Of ... on 19 January, 2011](#)

[Sodan Singh Etc. Etc vs New Delhi Municipal Committee & ... on 30 August, 1989](#)

[The Home Secretary vs Era.Selvam on 13 April, 2013](#)

[Satvayug Party And Another vs Govt. Of A.P. And Another on 16 October, 1995](#)

JUDGEMENT:

Rule 7 of the rules is void. [283F; 293E; 299D] (Per S. M. Sikri, C.J., A.N. Ray and P. Jaganmohan Reddy, JJ): (1) The impugned rules are not ultra vires s/33 (1) in so far as they require prior permission for holding meetings, [280B-C] Sub-section 33 (1) (0) proceeds on the basis that the public has a right to hold assemblies and take processions on and, along with, though it is necessary to regulate the conduct and behaviour or action of persons constituting such assemblies or processions in order to safeguard the rights of citizens and in order to preserve public order. The word 'regulate' would include the power to prescribe that permission in writing should be taken a few days before the holding of a meeting on a public street. The impugned rules do not prohibit the holding of meetings but only prescribe that permission should be taken. [275B-E] (2)(a) Section 33(1) (0) does not violate Art. 19(1) (b), and Art. 19(i) (a) is not attracted to the facts of the case. The sub-section has nothing to do with the formation of assemblies and processions but only deals with persons as members of assemblies and processions. The subsection enables the Commissioner to make rules to regulate the assemblies and processions. Without such rules, in crowded public streets, it would be impossible for citizens to enjoy their various rights. Indeed, the section may be said to have been enacted in aid of the rights under Art. 19 (1) (a) and 19(1) (d). [281B-D] (b) It could not be contended by the respondent that as under the Common Law of England no one has a right to hold a meeting on a highway, and the same law prevails in India. and therefore, the word 'regulate' means a right to prohibit the holding of a meeting also. In India, the law has developed on slightly different lines, and a citizen in India had, before the Constitution, a right to hold meetings on public streets subject to the control of the appropriate authority regarding the time and place of the meetings and subject to considerations of public order. While prior to the coming into force of the Constitution, the right to assemble could have been abridged or taken away by law, after the coming into force of the Constitution, the right cannot be abridged except by imposing reasonable restrictions. There is nothing wrong in requiring prior permission to be obtained before holding a public meeting on a public street, for the right which flows from Art. 19(1)(b) is not a right to hold a meeting at any place and time. But, 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. In the present case, however, r. 7 does not give any guidance to the officer authorised by the Commissioner of Police as to the circumstances in which he can refuse permission to hold a public meeting. The officer cannot be expected to read the marginal note to s. 33 or to look at the scheme of the Act to spell out the limitations on his discretion. Therefore, the rule, which confers arbitrary powers on the authorised officer must be struck down. The other rules which merely lay down the procedure for obtaining permission cannot survive, but, it is not necessary to strike them down, for, 'without r. 7, they cannot operate. Rule's 14 and 15 deal both with processions and public meetings and their validity, in so far as processions are concerned, is not affected.