

February 16, 2022
Sl. No.2 & 3
Court No.1
SG/s.biswas

WPA (P) 271 of 2021

With

CAN 4 of 2022

Mousumi Roy

vs.

West Bengal State Election Commission and others

AND

WPA (P) 299 of 2021

With

CAN 2 of 2021 & CAN 7 of 2022

Pratap Banerjee

vs.

The State of West Bengal and others

(Through Video Conference)

Mr. Sabyasachi Chatterjee,

Mr. Sayan Banerjee,

Mr. Ankur Sharma, Advocates

..for the applicant in CAN 4 of 2022 in
WPA(P) 271 of 2021

Mr. Ranjit Kumar, Senior Advocate

Mr. Billwadal Bhattacharyya,

Mr. Dhiraj Trivedi,

Mr. Rajdeep Majumdar,

Mr. Brajesh Jha,

Mr. Kabir Sankar Bose,

Mr. Subas Ray,

Mr. Debanik Banerjee,

Mr. Lokenath Chatterjee,

Mr. Mukul Singh,

Mr. Sayak Chakraborti,

Mr. Moyukh Mukherjee,

Mr. Anish Kumar Mukherjee,

Mr. Amrit Sinha,

Mr. Surajit Saha, Advocates

..for the Petitioner & applicant in CAN 7/2022
in WPA(P) 299 of 2021

Mr. Y. J. Dastoor, Id. ASG

Mr. Vipul Kundalia, Advocate

... for the Union of India
in WPA(P) 271 of 2021

Mr. Anuran Samanta, Advocate

..for ECI in WPA(P) 271 of 2021

Mr. S. N. Mookherjee, Id. Advocate General
 Mr. Samrat Sent, Id. AAG,
 Mr. A. Ray, Id. Govt. Pleader
 Mr. Md. T.M. Siddiqui,
 Mr. Raja Saha,
 Mr. D. Ghosh,
 Mr. N. Chatterjee, Advocates

..for the State

Mr. Jayanta Mitra, Senior Advocate
 Mr. Jishnu Saha, Senior Advocate
 Ms. Sonal Sinha,
 Ms. Joveria Rubana,
 Mr. Subhankar Nag,
 Mr. Anit Kr. Ds,
 Mr. Rama halder,
 Mr. Ashish Dutta,
 Mr. Tarun Chatterjee,
 Mr. Suddhadev Adak,
 Mr. Dipankar Ghosh, Advocates

..for the West Bengal State
 Election Commission

Mr. Saktinath Mukherjee, Senior Advocate
 Mr. Biswajit Kumar,
 Mr. Raja Baliyal, Advocates

... for the respondent No.2 in
 WPA(P) 299 of 2021

CAN 7 of 2022 has been filed in WPA(P) 299 of 2021 with the prayers relating to deployment of central paramilitary forces, effective CCTV surveillance, appointment of independent impartial general observer and impartial micro-observer, verification of EPIC cards/photo identity cards before entry inside the polling stations, making respondent No.4 personally liable in terms of the earlier order of this Court in respect of forthcoming polls to the 108 municipalities scheduled on 27.02.2022 and cancellation of elections held on 12.02.2022,.

The submission of learned senior counsel appearing for the petitioner is that the faith and confidence imposed

by this Court on the State Election Commission has been belied and in this regard he has referred to earlier order of this Court. He has also submitted that after the notification of the elections, the State Government has floated two schemes by issuing the notification dated 25.01.2022 viz. Duare Sarkar and Paray Samadhan Programme, which is in violation of the Model Code of Conduct. He has also submitted that during the elections of Bidhannagar, Asansol, Siliguri and Chandannagar Municipal Corporations, incidents of violence have taken place and in this regard he has referred to the pleadings contained in paragraph 9 of CAN 7 of 2022. He has further submitted that the candidates of the petitioner's political party have been prevented from filing their nominations and has produced the chart before this Court indicating that in Bolpur Municipality against 22 seats only 3 candidates, Budge Budge Municipality against 20 seats only 8 candidates, Tarakeshwar Municipality against 15 seats only 9 candidates, Sainthia Municipality against 16 seats only 3 candidates, Bolpur Municipality against 22 seats only 3 candidates, Tarakeshwar Municipality against 15 seats only 9 candidates and Dinhata Municipality against 16 seats only 7 candidates of petitioner's party could file their nominations. Learned counsel appearing for the petitioner has also referred to various newspaper

publications indicating the incidents of the violence during the elections of four municipal corporations.

He has also submitted that the representations filed by the petitioner in pursuance to the earlier direction of this Court have not been even noticed by the Election Commission.

CAN 4 of 2021 in WPA(P) 271 of 2021 has been filed by the applicant in respect of an incident with the prayer to arrest the accused persons whose names are reflected in the FIR, annexure P-1, and record the statements under Section 164 of the Cr.P.C. Further prayer has been made that the State Election Commission be directed not to act on the direction of the State Government.

Learned counsel for the State Election Commission has submitted that only stray incidents of violence have taken place and in respect of those incidents, immediate steps were taken and that conflicting news reports have come about violence during elections and peaceful elections. Learned counsel appearing for the State Election Commission has placed reliance upon the newspaper namely Jago Bangla. He has submitted that from the fact that 72% voting has been done, it is clear that free and fair elections took place. He prays for time to file affidavit in response to the allegations made in the application.

Learned senior counsel for Election Commission has fairly stated that the CCTV footage and other material in terms of the directions contained in (i) to (iii) in the order dated 23.12.2021 will be duly preserved immediately in respect of four Municipal Corporation Elections which have been recently held.

Learned Advocate General has also submitted that whenever reports of violence have been made, due action has been taken. He has also prayed for time to file affidavit in response to the application.

Learned Advocate General has also submitted that there is no objection in recording the statement under Section 164 of Cr.P.C. as also extending police protection to the complainant in the FIR, Annexure P-1 in CAN 4 of 2022.

The same prayer seeking time to file response has been made by learned senior counsel appearing for respondent No.2 in WPA(P) 299 of 2021.

In view of submissions made above, we permit the State, State Election Commission as also respondent No.2 to file their affidavits-in-opposition before the next date of hearing by serving advance copy thereof to learned counsel for the applicants.

The State authorities are also directed to extend police protection to the complainant in FIR No.0023 dated 12.02.2022 registered in Bidhannagar (East) Police

Station, Annexure P-1 in CAN 4 of 2022 and promptly record the statement under Section 164 of the Cr.P.C.

List on 21.02.2022.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]