

24.09.2021
Court No.1
Item No.18
P.A (RB/SS)

WPA(P) 245 of 2021

Sayan Banerjee
Vs.
The Election Commission of India and Ors.
(Through Video Conference)

Mr. Bikash Ranjan Bhattacharya, Senior Advocate (Through V.C.)
Mr. Sabyasachi Chatterjee, Advocate
Mr. Bikram Banerjee, Advocate
Mr. Sudipta Dasgupta, Advocate
Mr. Arkadeb Biswas, Advocate
Ms. Sayanti Sengupta, Advocate
Mr. Ankur Sharma, Advocate
... for the Petitioner present in Court.

Mr. S.N. Mookherjee, Advocate General (Through V.C.)
Mr. Debanjan Mandal, Advocate
Mr. Anirban Ray, Government Pleader
Mr. Sandip Dasgupta, Advocate
Mr. Lalit Mohan Mahata, Advocate
Mr. Raja Saha, Advocate
Mr. Sayak Chakraborty, Advocate
Mr. Supratim Dhar, Advocate
... for the Respondent No.4 present in Court.

Mr. Sidhant Kumar, Advocate
Mr. Manyan Chandok, Advocate
Mr. Dipayan Choudhury, Advocate
Mr. Suvradal Choudhury, Advocate
... for the E.C.I. present on virtual mode.

Mr. Ajay Chaubey, Advocate
Ms. Sakshi Rathi, Advocate
... for the Respondent No. 3 present on virtual mode.

Mr. Sanjay Basu, Advocate
Mr. Piyush Agrawal, Advocate
Ms. Utsha Dasgupta, Advocate
... for the Respondent No. 5 present on virtual mode.

Affidavit was sought to be filed by the learned
Counsel appearing for Election Commission of India,
however, the same being not in the proper format
was not taken on record and returned back.

Arguments of learned Counsel for the parties were heard with reference to challenge to the Press Note dated September 04, 2021 regarding holding of election in the Bhabanipur Assembly Constituency.

Order reserved.

At the time of hearing, another issue transpired. What is evident from the facts of the case is that elections to the West Bengal State Assembly were held in April, 2021. Result was declared on May 02, 2021. The respondent No. 5 contested the election from Nandigram constituency and lost. She was sworn-in as Chief Minister. To continue as such, she has to be a Member of the Assembly. An elected member from Bhabanipur constituency was made to resign so that the seat becomes available to enable the respondent No. 5 to contest the election.

It is a matter of common knowledge that it costs crores of rupees to the public exchequer to hold elections. It should not be taken merely at the whims and fancies of the persons who are in power or otherwise elected or losing candidates. In case an elected candidate resigns from his constituency before completion of term without there being any legal disability, to enable another person to contest

the election from that constituency as to who should bear the cost to be recurred by the State exchequer is a larger issue which is required to be considered. For the aforesaid purpose, the matter shall be listed for hearing on November 17, 2021.

We request Mr. Bikash Ranjan Bhattacharya, learned Senior Counsel to assist the Court on the larger issue.

[Rajesh Bindal, C.J.(A)]

[Rajarshi Bharadwaj, J.]