

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.483 of 2024

Tripura Pradesh Congress Committee and Anr.
.....Petitioner(s)
Versus
The State Election Commission, Tripura and Ors.
....Respondent(s)

WP(C) No.484 of 2024

Communist Party of India (Marxist) and Anr.
.....Petitioner(s)
Versus
The State Election Commission, Tripura and Ors.
....Respondent(s)

For Petitioner(s) in WP(C) 483 of 2024	:	Mr. P. Roy Barman, Sr. Advocate Mr. Samarjit Bhattacharjee, Advocate Mr. Kawsik Nath, Advocate Mr. Dipjyoti Paul, Advocate
For Petitioner(s) in WP(C) 484 of 2024	:	Mr. T. D. Majumder, Sr. Advocate Mr. S. Saha, Advocate Ms. R. Purkayastha, Advocate Mr. S. Chakraborty, Advocate
For respondent(s)	:	Mr. S. S. Dey, Advocate General Mr. D. Bhattacharjee, Sr. Advocate Mr. S. Saha, Advocate
Date of hearing and delivery of Judgment	:	18.07.2024
Whether fit for reporting	:	Yes

**HON'BLE MR. JUSTICE ARINDAM LODH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

JUDGMENT & ORDER (ORAL)

(Arindam Lodh, J.)

By means of filing the above two writ petitions, the petitioners have prayed for following reliefs.

2. The reliefs sought for in WP(C) No.483 of 2024 are:

“Under the Circumstances, stated above, it is most humbly submitted that the Hon’ble High Court will be kind enough to:-

- i. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be*

issued whereby directing the Respondents to facilitate submission of Nomination Forms by the intending Candidates through online mode in c/w General Election to all the constituencies/seats of Gram Panchayats, Panchayat Samities & Zilla Parishads of the State of Tripura, which is scheduled to be polled on 08.08.2024.

- ii. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to accept Nomination Forms from the intending Candidates at the Office of the State Election Commissioner, Tripura, or the District Magistrate of the concerned District, in c/w General Election to all the constituencies/seats of Gram Panchayats, Panchayat Samities & Zilla Parishads of the State of Tripura, which is scheduled to be polled on 08.08.2024.*
- iii. Issue Rule upon the Respondents to show cause as to why Writ in the nature of mandamus and/or Order/direction shall not be issued whereby directing the Respondents to extend the last date of submission of Nomination Forms in c/w General Election to all the constituencies/seats of Gram Panchayats, Panchayat Samities & Zilla Parishads of the State of Tripura, 2024, from 18.07.2024 to 22.07.2024.*
- iv. Make the rules absolute.*
- V. Call for records.*
- vi. Pass any further order/orders as this Hon'ble High Court considered fit and proper.*

And

For this act of kindness, the Petitioner, as is duty bound, shall ever pray.”

3. In WP(C) No.484 of 2024, following reliefs have been sought for:-

“That in view of the above the petitioners prays following reliefs:-

- i. Admit this petition;*
- ii. Issue notice upon the Respondents;*
- iii. Call for records relevant to the subject matter;*
- iv. Issue Writ the respondents or each of them to immediately create level playing field for the political parties in the ensuing Tripura Panchayat Election 2024 scheduled to be held on 08.08.2024 and allow the intending candidates to submit nomination papers through online to the Returning Officer;*
- v. Issue Writ directing the respondents or each of them to restore law and order in the local limits of Panchayat areas in the*

wake of Tripura Panchayat Election 2024, so that the persons intending to participate in Election process may not be disturbed, opposed, kidnapped or murdered by the goons controlled by the Party in power;

- vi. Issue Writ the State Election Commission to reschedule the date of election extending the period of submission of nomination papers in the ensuing election of members of Gram Panchayat, Panchayat Samiti and Zilla Parishad, so that participation of people of state can be ensure to restore democratic polity in the State of Tripura;
- vii. Issue Writ directing the respondents or each of them to restore law and order in the local limits of Panchayat areas in the wake of Tripura Panchayat Election 2024, so that the persons intending to participate in Election process may not be disturbed, opposed, kidnapped or murdered by the goons controlled by the Party in power;
- viii. Issue Writ directing the respondents or each of them to provide adequate Central Security Personnel in the whole process of election starting from submission of nomination papers till the end of election to avoid rampant criminalization and violation of level playing field in the Panchayat Elections by the goons in the eye sight of State police;
- ix. Issue Writ directing the respondents or each of them to make necessary arrangements also allow the intending candidates of all political parties to submit nomination papers in the office of the District Magistrate & Collector as there is no congenial atmosphere is the Block offices to submit nomination papers; and
- x. Also passed any other orders or orders as your Honour may seem fit and proper regarding the facts and circumstances of the case;

-AND-

For this act of kindness your above named Petitioners as in duty bound shall ever pray."

4. We have heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. Samarjit Bhattacharjee, learned counsel appearing for the petitioners in WP(C) 483 of 2024 and Mr. T. D. Majumder, learned senior counsel assisted by Mr. S. Chakraborty, learned counsel appearing for the petitioners in WP(C) 484 of 2024. Also heard Mr. S. S. Dey, learned Advocate General

assisted by Mr. D. Bhattacharjee, learned senior counsel and Mr. S. Saha, learned counsel appearing for the State-respondents as well as the State Election Commission.

5. Since common questions of law and facts are involved in both the writ petitions, these are taken up and heard together for disposal by this common judgment with the consent of learned counsel appearing for the parties.

6. At the very outset, learned senior counsel appearing on behalf of the petitioners have fairly submitted that they are well aware regarding the scope of interference of this Court to pass any such directions which are not mentioned in the statute, i.e. Tripura Panchayat Act and the Rules thereof. They have fairly submitted that this Court may pass a direction upon the State authorities and the State Election Commission to ensure fair election and to create an atmosphere so that the voters can exercise their franchise and to participate in the election process. They have also sought for adequate protection to be provided to the candidates who are willing to submit nomination papers.

7. Mr. S. S. Dey, learned Advocate General representing the State Election Commission as well as Civil authorities of the State has emphatically contended that there is none before this Court expressing their grievances that he/they are not allowed to submit nomination papers at the places mentioned in the notification for the Panchayat Election. Learned Advocate General has apprised this Court that all security measures have been taken to ensure free and fair election. Mr. Dey, learned Advocate General has further submitted that the two petitions before this Court are not at all maintainable since the petitioners have failed to make out a case showing violations of any statutory provisions relating to submission of nomination papers and conduct of free and fair elections.

8. We have considered the rival submissions advanced by learned counsel appearing for the parties.

9. On perusal of the prayers made in the writ petitions, it comes to light that the petitioners have sought for a direction upon the respondents to allow

them to file nomination papers online. The Tripura Panchayat Act and Rules were framed in the year 1993. No statutory provision is prescribed to allow the candidates to file nomination papers online.

10. *In our opinion, with the advancement of digital technology and with the over-increasing criminalization in politics, now it is high time that the Election Commission is to bring necessary amendments in Law making suitable provisions so that candidates willing to contest elections may file nomination papers through electronic means. In the democratic system of governance, the authorities concerned must ensure free and fair elections. According to us, online filing of nominations would play vital role to fulfill the commission's statutory duty to maintain the purity of elections. However, true it is, any decision in this regard would depend on the specific legal framework, and of course, the technological feasibility, which also may not be very difficult to sort out in the present scenario.*

[emphasis supplied]

11. Coming to the facts of the instant case, at this stage, law of the land on the subject in issue makes our hands tied. Court is to act according to the confines of the provisions prescribed in the statute. Courts cannot go beyond the statute to pass any direction upon the respondents to adopt such mechanism which is not in the statute itself. It is settled proposition of law that during the process of election, the court cannot pass any direction to remove any kinds of irregularities or malpractices by any person or persons. The statute gives liberty to any of the electorate or the candidates or any person or persons to raise their grievance after completion of the entire election process before an appropriate forum. At this stage, interference by this court is not at all called for which is also conceded by learned counsel appearing on behalf of the petitioners.

12. Yes, it is true that the petitioners in their petitions have raised certain issues concerning their doubts about the conduct of free and fair elections. We have also considered the submissions of learned Advocate General appearing for the State who has assured this Court that all security measures, though have already been taken, however it would be reviewed again if there

is any gap, and all steps would be taken to prevent any untoward incident and to ensure conduct of free and fair elections.

13. Learned Advocate General also has fairly submitted that sanctity of election should be maintained and the people's right to exercise their franchise freely as enshrined in the Constitution of India should not be curtailed or infringed.

14. In the light of above submissions, we direct the State Civil authorities as well as State Election Commission to provide adequate security to the candidates willing to submit nomination papers at the place mentioned in the notification of Panchayat Election. In furtherance thereof, the State Civil authorities shall also ensure the conduct of free and fair Panchayat Elections in the State of Tripura.

With the above observations and directions, the above writ petitions are disposed of.

JUDGE

JUDGE



Rohit

SANJAY GHOSH
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