

18.03.2021

Item no. **06**

Dd/aloke

(Through Video Conference)

MAT 216 of 2021

with

CAN 1 of 2021

Gopal Seth

Vs.

Election Commission of India & Ors.

Mr. Biswaroop Bhattacharya, adv.

Mr. Lal Mohan Basu, adv.

Mr. Sanjib Dutta, adv.

... ... For the Appellant/writ petitioner

Mr. Dipayan Choudhury, adv.

Mr. Suvradal Choudhury, adv.

Ms. Priyanka Chowdhury, adv.

... ...For the Election Commission of India

Mr. Sonal Sinha, adv.

.. ...For the WBSEC

1. We have heard the learned counsel for the appellant/writ petitioner. We have also heard the learned counsel for the Election Commission of India.

2. The writ petition was instituted pointing out that notwithstanding the availability of Rule 49 MA of the Conduct of Election Rules 1961, it is necessary to further spread out the flow of the modalities brought out by the Supreme Court of India to ensure probity and transparency in election. We see that the proposal given by the petitioner in the form of representation stands rejected by the Election Commission of India. We do not find any reason to interfere with the discretionary jurisdiction exercised by the learned single Judge in declining to entertain the writ petition.

3. However, we are clear in our mind that the Election Commission of India is always well within its power to ensure requisite modalities to reach the ultimate goal of an electoral process once commenced in terms of the provisions of the laws relating to election; in particular, the Representation of the People Act, 1951. Obviously, any decision by the Election Commission of India at a particular point of time would obviously not stand in its way for further modalities in any circumstance or at any later point of time if the Election Commission of India needs to do so, in accordance with law. In this view of the matter also, we do not think that any direction or interdiction to the Election Commission of India is warranted in the case in hand.

4. For the aforesaid reason, this appeal is dismissed. The connected application is also dismissed.

[Thottathil B. Radhakrishnan, C.J]

[Aniruddha Roy, J.]