

01.03.2021
Item No. 2
Ct. No.1
Saswata & ab

WPA (P) 88 of 2021
with
IA No: CAN 1 of 2021
Bimal Kumar Chatterjee
-vs-
Election Commission of India & Ors.
(via video conference)

Mr. Bikash Ranjan Bhattacharya, Sr. ADV.
Mr. Billwadal Bhattacharya
Mr. Rajmohan Chatterjee
Mr. Sabyasachi Chatterjee
Mr. Sankar Prasad Dalapati
Mr. Anish Kumar Mukherjee
Mr. Pritam Chowdhury
Mr. Anup Dasgupta
... for the petitioner

Mr. Kishore Datta, Ld. AG
... for the State

Mr. Dipayan Chowdhury
Mr. S. Chowdhury
Mr. Souma Bhattacharya
Mrs. Priyanka Chowdhury
... for the Election
Commission of India

Mr. Y.J.Dastoor, Ld. ASG
Mr. Vipul Kundulia
Mr. Phiroze Edulji
... for the UOI

Mr. Samim Ahmed
Ms. Saloni Bhattacharya
... for respondent no. 14

Mr. Sridhar Chandra Bagari
... for the applicant in IA No:
CAN 1 of 2021

We have heard the learned senior counsel for the petitioner, the learned Advocate General, the learned Additional Solicitor General and the learned counsel for the Election Commission of India.

The pith and substance of this writ petition is essentially sounding apprehension regarding the conduct of free and fair election in the State of West Bengal, where notification has been issued to conduct the election of Bidhan Sabha.

The learned Advocate General submits at the outset that this is not a case which is to be entertained since whatever has been attempted to be mentioned in the writ petition, does not constitute what could be called as real apprehension which may generate and ignite exercise of writ jurisdiction, that too as a Public Interest Litigation.

Free and fair elections are part of the democratic rights of the citizenry as a whole. Guarantee in terms of the Constitution which governs the elections in the context of the constitutional backdrop in which the legislations are placed necessarily emboldens the Election Commission of India to be in complete control of the election process, thereby meaning that ensuring free and fair elections will be the topmost goal of the Election Commission of India, once it notifies the election.

It is also the well accepted proposition including jurisdiction that the Courts will loathe interference in the matters touching elections, once a notification is issued and until the electoral process is completed and the results are declared. It is for the Election

Commission of India to ensure free and fair election with lawful authority.

Without much elaboration, it needs to be stated that it is within the domain of the Election Commission of India not only in terms of authority and power but also in terms of its duties to ensure free and fair election in any Constituency where a notification has been issued by the Election Commission of India.

In the aforesaid format of the position in law, we are of the considered view that this writ petition need not result in any positive direction by the Court in any manner which would be read to indent the process of guiding the Election Commission of India in conducting the election in ensuring law and order during the process and instilling confidence in the citizenry which means, thereby the voters at large to access the electoral process and to participate in it freely and fairly.

It is also within the domain of the Election Commission of India to take care of any complaints or inputs regarding different aspects of which the Election Commission of India would have its regulatory power which in terms of the statutes and order and guidelines issued from time to time, would run with primacy.

For the aforesaid reasons, this writ petition is disposed of recording the submissions on behalf of the

Election Commission of India, that it would ensure free and fair elections and will do everything needed for such purpose in the State of West Bengal in connection with the election of Bidhan Sabha, which has been notified recently.

Writ petition being WPA (P) 88 of 2021 is, accordingly, disposed of.

In re : IA No: CAN 1 of 2021

This is an application seeking intervention. Having regard to the nature of the writ petition and the order which has already been issued on it disposing of the same, we do not think any purpose would be served by entertaining this application for intervention. Hence this application is rejected without prejudice to other courses open to the application in accordance with law.

(Thottathil B. Radhakrishnan, CJ.)

(Shampa Sarkar, J.)