

ORDER SHEET

WPO 189 of 2021
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
ORIGINAL SIDE

D.N. BISWAS AND CO.
VS
THE ELECTION COMMISSIONER OF INDIA & ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 22nd April, 2021.

(Via Video Conference)

Mr. Emon Bhattacharya,
Mr. Partha Pratim Dutt, Advs.
...for the petitioner
Mr. Dipayan Choudhury,
Mr. Suvaradal Choudhury,
Mrs. Priyanka Chowdhury,
Mr. Rijit Chakraborty, Advs.
...for respondent nos. 1 and 2
Mr. Amitesh Banerjee, Sr. Standing Counsel
Ms. Ipsita Banerjee, Adv.
...for the State

The Court: The grievance of the petitioner is that by a notice dated February 27, 2021, the Deputy Commission of Police, Reserved Force (Arms Act Department), Kolkata Police asked the petitioner to deposit arms in terms of Sections 17 and 21 of the Arms Act, 1959, in connection with the then ensuing General Election to the Legislative Assembly of West Bengal, 2021. Learned counsel appearing for the petitioner argues that such notice is *de hors* the guidelines issued by the Election Commission of India itself dated September 1, 2009.

However, learned counsel appearing for the State respondent as well as for the respondent nos. 1 and 2 contend that the matter directly pertains to the ongoing election process and, as such, this Court ought not to interfere in the matter at this stage.

There is substance in the submission of the respondents inasmuch as Article 329(b), read with Article 324, of the Constitution of India debar any Court from interfering with any grievance related to the election process during its continuance. Since Article 226 is a Constitutional remedy and, thus, on the same footing as the Articles mentioned above, the three provisions have to be read harmoniously in conjunction with each other. As such, the present challenge is not maintainable at this juncture before this Court.

Accordingly, WPO 189 of 2021 is dismissed as not maintainable, with liberty to the petitioner to prefer an appropriate challenge upon completion of the election process before the appropriate forum on the same grievances as ventilated in the present writ petition. It is made clear that the merits of the respective contentions of parties have not been entered into or decided upon by this court. There will be no order as to costs.

Urgent certified copy of this order, if applied for, be made available to the parties subject to compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

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