

S/L 172
30.6.2022
Court. No. 19
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WPA 2113 of 2022

Amitabha Chakraborti
Vs.
The State of West Bengal & Ors.

Mr. Rabi Sankar Chattopadhyay
Mr. Kaustav Sen ... for the petitioner

Mr. Anirban Roy
Mr. Biswabrata Basu Mallick
Sk. Md. Galib
Ms. Sujata Ghosh ..for the State

The petitioner is a member of All India Congress Committee. He was performing his duty as an election agent of a candidate belonging to the congress party in Ward No.45 of the Kolkata Municipal Corporation.

The allegation is that some anti-social elements and goons hired by the ruling party, ransacked the booth, prevented lawful voters from casting their votes and created a riotous situation. Further allegation is that such illegal activities were committed in the presence of the police authorities, but the police authorities did not take any steps.

On the earlier occasion, the police authorities were directed to file a report. Today, an instruction given to the learned advocate through the Officer-in-charge, Hare Street Police Station, has been submitted before this Court. It appears that Hare Street Police Station Case No. 271 dated December 19, 2021 and Hare Street Police Station Case No. 272 dated

December 19, 2021 have been initiated under Sections 143/147/149/188 of the Indian Penal Code.

The petitioner vehemently relies on the complaint lodged before the Hare Street Police Station in order to substantiate his claim that applicable sections have been omitted by the police authorities in order to protect the miscreants.

Mr. Chatterjee, learned advocate for the petitioner submits that in order to uphold democracy, and the constitution, this court must monitor the investigation. The alleged activities of the miscreants were supported by the police authorities. The citizens have been deprived from exercising their democratic rights.

The allegation is that the police authorities have acted as agents of the ruling party.

Mr. Galib, learned advocate for the State respondents submits that the police authorities were of the prima facie view that there was unlawful assembly, violence etc. Enquiry was made. Statement of the local people under Section 161 of the CrPC, were recorded. Some persons were arrested. The investigations are in progress. The police authorities also took steps to identify the other persons involved in the alleged crime. It is submitted that the investigation shall be concluded shortly.

Having considered the rival contentions of the parties, this Court is of the view that the allegations of obstructing lawful voters from exercising their democratic right, booth capturing etc. are serious and such activities shake the democratic set-up of the country.

The investigation has to be completed in such a manner that the public at large, repose their faith in the system and may cast their vote without any fear and apprehension, in future.

This Court is of the view that the investigation must be reached to its logical conclusion expeditiously and an officer, not below the rank of a Joint Commissioner of Police, Lalbazar, shall monitor the investigation and take all steps to ensure that repetition of this kind of an incident, is prevented.

This Court expects that this order shall be given its due weightage.

As the investigation is still continuing, the prayer of the petitioner for adding further sections cannot be allowed by the Court. The investigating agency can add other sections if necessary, during the investigation.

As no affidavit in opposition has been called for, the allegations contained in the writ petition are deemed to have been denied by the respondents.

The police report is taken on record.

This writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)