

23rd February,
2022
(AK)
SPL
05, 10 & 11

WPA 3065 of 2022

(Via Video Conference)

Sri Sanjay Kumar Sharma and others
Vs.
State of West Bengal and others

With

WPA 3229 of 2022

Smt. Tanushri Ghosh (Das) and others
Vs.
State of West Bengal and others

With

WPA 3231 of 2022

Sri Sanjay Kumar Sharma and others
Vs.
State of West Bengal and others

Mr. Tanmay Basu
Mr. Debdip Mandal
Mr. Ranajay Chatterjee
...for the petitioners.

Mr. S.N. Mookherjee
Mr. Anirban Ray
Mr. Raja Saha
Mr. Debasish Ghosh
Mr. Nilotpall Chatterjee
...for the State.

Ms. Sonal Sinha
...for the Election Commission.

Learned counsel for the petitioner in all the three matters vociferously contends that the respective petitioners have suffered from assault and offensive

action from members of the ruling party in the State, which is allegedly in control of affairs in respect of the impending election.

It is further submitted that one of the workers for the political party represented by the petitioners has already gone missing, for which due complaint has been lodged with the police authorities.

It is further submitted that the petitioners in these three matters are in reasonable apprehension of serious risk to life and limb while campaigning for the forthcoming municipal elections and immediately before and after the election process is over, in view of the threats being issued recurrently to the petitioners from the political party in power in the State.

Learned Advocate General, appearing for the State, specifically contends that there is no basis for such apprehension in the mind of the petitioners, more so since a Division Bench presided over by the Hon'ble the Chief Justice has already passed an order in public interest litigations bearing nos. WPA(P) 271 of 2021 and WPA(P) 299 of 2021.

By such order dated February 23, 2022, that is earlier today, the Division Bench has provided for specific safeguards to take care of all possible apprehensions of the contesting candidates in the oncoming elections to be held on February 27, 2022.

It appears from the said order, a print-out of a server copy of which is handed over to court by learned Advocate General, that the said order categorically deals with the apprehensions of candidates regarding security threats and allied matters.

In paragraph no.12 of the said order, the following directions were issued by the Division Bench:

“Hence, we direct that the Commissioner, State Election Commission will collect information in respect of the conditions prevailing in each of the Municipalities where the elections are scheduled and will hold the joint meeting with the Home Secretary of the State and the Director General and Inspector General of the Police within 24 hours and will examine the ground situation of each of the 108 Municipalities and take a decision in writing in respect of deployment of paramilitary forces by mentioning the relevant circumstances in support of his decision to deploy/not to deploy the paramilitary forces. If the Commissioner, State Election Commission takes the decision not to deploy the paramilitary forces, then he will be personally liable to ensure no violence takes place and free, fair and fearless elections take place in the municipality where paramilitary forces are not deployed.”

Moreover, learned Advocate General files a report authored by the Superintendent of Police, Malda, who is in-Charge of the respective electorates which are the subject matters of the present three writ petitions, which clearly indicates that there is no separate threat perception against the petitioners.

That apart, it has been clearly mentioned in the said report, inter alia, that as per intelligence gathered so far, there is no immediate and perceivable threat against the said contesting candidates and writ petitioners and all

contesting candidates, including the instant writ petitioners, are able to campaign freely. Hence, no additional security is recommended for any contesting candidates of those wards at present.

If any personal threat against any contesting candidates is received in future, the threat perception, as assured by the Superintendent of Police, Malda would be reassessed and necessary protection would be provided in such a scenario.

This court is satisfied with the report of the Superintendent of Police, which has been submitted pursuant to a direction of a coordinate Bench in the present matters, which indicates that there is no necessity of additional security being provided to the petitioners than that which has been provided in the general guidelines stipulated by the Division Bench in the PIL mentioned above.

Since no *mala fides* and/or ill intent of the Superintendent of Police, Malda has been pleaded or proved, there is no reason to disbelieve the report given by the SP, which is kept on record.

Hence, there is no necessity of interference in the present three writ petitions.

Accordingly, WPA 3065 of 2022, WPA 3229 of 2022 and WPA 3231 of 2022 are disposed of with liberty to the petitioners to approach the appropriate authorities and/or the Election Commission for redressal in the event

any of the election norms as provided in law and/or stipulated in the Division Bench judgment, referred to above, is violated.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)