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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P.A. No. 3181 of 2022

(Via video conference)

Chandan Jana & Ors.

-vs.-

The State of West Bengal & Ors.

Mr. Srijib Chakraborty,
Mr. Suryaneel Das
...for the petitioners

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

Mr. Vipul Kundalia,
Mr. Somnath Adhikary
...for the Union of India

Learned counsel for the petitioners vociferously argues that the report filed today by the Superintendent of Police, Purba Medinipur, pursuant to the order of the Hon'ble Justice Rajasekhar Mantha, dated February 22, 2022, is vague and insufficient in nature. Although additional police protection has been individually given to seven of the writ petitioners, no such protection has been given to the other fourteen.

Learned counsel categorically submits that, in view of the nature of the allegations in the representation given by the petitioners, the Superintendent of Police ought to have observed in favour of granting individual police protection to them due to the seriousness of the allegations.

Learned Advocate General, however, placing reliance on a report filed by the concerned Superintendent of Police, Purba Medinipur, submits that seven of the writ petitioners have already been afforded police protection individually.

However, regarding other fourteen writ petitioners, as per intelligence gathered, there is no immediate threat perception against them. Furthermore, it is observed in the report that at the wards noted therein, no perceivable information of threat had been received and the contesting candidates are able to campaign freely. Thus, the Superintendent of Police did not recommend any additional security for the said fourteen candidates.

It has further been assured in the report of the Superintendent of Police that if any specific threat against any other contesting

candidate is received in future, the threat perception will be reassessed and necessary protection will be provided.

It is further elaborated in the report that if any threat perception is received by the candidates-in-question, protection will be given to them then and there.

Apart from the said report of the Superintendent of Police, learned Advocate General also places reliance on an order passed by a Division Bench comprised of the Hon'ble the Chief Justice earlier today in WPA(P) 271 of 2021 with WPA (P) 299 of 2021, wherein several security measures were stipulated by the Division Bench. In paragraph 12 therein, it was specifically directed that the Commissioner of the State Election Commission would collect information in respect of the conditions prevailing in each of the municipalities where elections are scheduled and will hold a joint meeting with the Home Secretary of the State and the Director General and Inspector General of Police within 24 hours and would 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. The Division Bench also held that if the Commissioner, State Election Commission, takes the decision not to deploy the paramilitary forces, then he would be personally liable to ensure that no violence takes place and free, fair and fearless elections take place in the municipalities where paramilitary forces are not deployed. That apart, learned Advocate General further submits that no specific allegation has been levelled against the Superintendent of Police or the veracity of his report.

Upon hearing learned counsel for the parties and perusal of the materials-on-record, it is evident that the representation contemplated in the order dated February 22, 2022 of the Hon'ble Justice Rajasekhar Mantha pertained to the allegations made in the writ petition and in the complaints which were the genesis of the writ petition. Learned Single Judge specifically held that, since the petitioners individually expressed a serious threat perception, they shall be entitled to make a suitable representation to the

concerned Superintendent of Police by the same evening.

The threat perception, as per the order of the learned Single Judge, was to be assessed and a suitable decision to be taken and communicated to the Court by today, that is, February 23, 2022, pursuant to which the report of the Superintendent of Police has been filed.

It has further been recorded in the order of the coordinate Bench dated February 22, 2022 that the Officer-in-Charge of the concerned police stations shall, however, ensure that there is absolutely no breach of peace, intimidation or threat of any manner whatsoever to any candidate in the forthcoming municipal elections.

Looking into the specific allegations made by the writ petitioners in the representation given in pursuance of the order of the coordinate Bench, as compared to their initial complaints and allegations made in the writ petition, several discrepancies are noted.

As for example, in Item No. 20 of the representation-in-question, a copy of which has been handed over in Court today by

learned counsel for the petitioners, it has been alleged that a lady candidate of a particular political party is being openly threatened with slang language giving obstruction in campaigning by a particular worker of the rival political party and that threats are being made over phone from a particular mobile number, which has been enumerated in Item No. 20 of the representation.

However, from a perusal of the written complaint initially lodged by the said candidate, which is annexed to the writ petition, it appears that the allegations made therein were of a much more serious nature than those made in the subsequent representation.

It was alleged in the complaint filed with the police authorities that the candidate and her family members were being obstructed from leaving their residence and threats were being issued to their lives by the rival political party workers. That apart, there is no specific allegation in the complaint lodged with the police on February 14, 2022 and/or in the pleadings of the writ petition, against any particular worker of the rival party and/or

mention of any particular phone number or regarding a threat being issued over a particular phone number, as opposed to the representation.

Thus, there is a fair chance that the representation, at least in respect of some of the candidates, might very well be an election gimmick more than a genuine grievance being expressed before a Court of Law.

In any event, even if any allegation of bias had been levelled by the petitioners at any stage regarding the integrity of the Superintendent of Police (which has not been actually done at all), it would remain unexplained as to why seven of the writ petitioners were afforded additional personal police protection although fourteen others were not, upon an assessment of the threat perceptions, with a further assurance from the Superintendent of Police that in the event of further complaints, immediate steps would be taken for adequate protection of the candidates.

Although it is alleged by learned counsel for the writ petitioners that seven Personal Security Officers (PSO) given to seven writ petitioners are from unarmed forces, the said

issue is unsubstantiated by any material and, even if true, can be taken care of by directing the respondent authorities to provide armed securities to the concerned seven candidates, who have been afforded police protection pursuant to the report filed by the Superintendent of Police.

In such view of the matter, W.P.A. No. 3181 of 2022 is disposed of by keeping on record the representation of the writ petitioners and the report submitted by the Superintendent of Police, Purba Medinipur, and also taking note of the undertaking given by the Superintendent of Police that, out of all the writ petitioners, particularly seven writ petitioners would be afforded additional police protection. The Superintendent of Police and the State (respondents) authorities are further directed to provide armed protection to the seven candidates, since those seven writ petitioners, according to the Superintendent of Police, have a justified threat perception. However, there is no scope of interfering with the assessment of the Superintendent of the respective threat perceptions of the individual candidates and the consequential decision of

the police not to give additional protection to the other fourteen candidates.

W.P.A. No. 3181 of 2022 is, thus, disposed of with the above observations.

Needless to say, the Officer-in-Charge of the respective police stations shall continue to ensure that there is absolutely no breach of peace, intimidation or threat of any manner whatsoever to any candidate in the forthcoming municipal elections as recorded by the Hon'ble Single Judge in the Order dated February 22, 2022 passed in the present writ petition.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)