

12.07.2023
Item Nos.1-4
gd/ssd

CPAN/831/2023
SUVENDU ADHIKARI AND ANR.
VS
RAJIVA SINHA
in
WPA(P)/301/2023
SUVENDU ADHIKARI AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
with
CPAN/841/2023
ABU HASEM KHAN CHOUDHURY
VS
RAJIVA SINHA
in
WPA(P)/286/2023
ADHIR RANJAN CHOWDHURY
VS
THE WEST BENGAL STATE
ELECTION COMMISSION AND ORS.
in
WPA(P)/287/2023
SUVENDU ADHIKARI AND ANR.
VS
STATE OF WEST BENGAL AND ORS.
with
CPAN/905/2023
SRI DIPANKAR RIT
VS
RAJIVA SINHA AND ORS.
in
WPA(P)/250/2023
SRI DIPANKAR RIT
VS
STATE OF WEST BENGAL AND ORS.
with
CPAN/907/2023
SANMOY BANERJEE
VS
RAJIVA SINHA AND ORS.
in
WPA(P)/250/2023

Mr. Guru Krishna Kumar, ld. Senior Advocate,
Mr. Soumya Majumder,
Mr. Srijib Chakraborty,
Mr. Kabir Shankar Bose,
Ms. Priyanka Tibriwal,
Mr. Vikas Singh,

Mr. Sayak Chakraborty,
 Mr. Anish Kumar Mukherjee,
 Mr. Suryaneel Das,
 Mr. Chiranjit Pal
 ..for the Petitioners in
 CPAN 831 of 2023.

Mr. Subir Sanyal,
 Mr. Lokenath Chatterjee,
 Mr. Sukanta Ghosh,
 Mr. Arghya Chatterjee
 ..for the Petitioners in
 CPAN 905 of 2023 and
 CPAN 907 of 2023.

Mr. Koustav Bagchi,
 Mr. Debayan Ghosh,
 Ms. Priti Kar
 ..for the Petitioner in
 WPA(P) 286 of 2023.

Mr. Ritzu Ghosal,
 Mr. Mrityunjoy Chatterjee,
 Mr. Debapriya Majumder
 ..for the Petitioner in
 CPAN 841 of 2023.

Mr. Jishnu Saha, Id. Senior Advocate,
 Ms. Sonal Sinha,
 Mr. Tarun Chatterjee,
 Mr. Sujit Gupta,
 Mr. Soumen Chatterjee
 ..for W.B. State Election Commission.

Mr. Ashoke Kumar Chakrabarti, learned ASG,
 Mr. Billwadal Bhattacharyya, learned DSGI,
 Mr. Ayanabha Raha
 ..for the Union of India.

Mr. S.N. Mookerjee, learned Advocate General,
 Mr. Sirsanya Bandopadhyay,
 Mr. Arka Kumar Nag
 ..for the State.

1. In terms of the directions issued earlier a report in the form of an affidavit has been filed by the Inspector General, BSF, the Force Coordinator.

2. On a perusal of the report we find that the allegations are very serious, more particularly the allegations against the State Election Commission. In several places in the report it has been stated that the support and response of the State Election Commission and the State authorities was found wanting on number of occasions. If the allegations set out in the report ultimately turn out to be true, then it would tantamount to a clear case of willful disobedience of the order and direction issued by this court. However, these are all prima facie observations made by this court as we would take a decision after the State Election Commission files their response to the report. There are also allegations against the State Government of non-cooperation etc.

3. Liberty is also granted to the concerned authorities to the State Government to file their response to the report filed by the Inspector General, BSF.

4. The learned Additional Solicitor General submitted that clear instructions were not given to the Force Coordinator with regard to deployment and more particularly, the other facilities which have to be extended to the Forces who have been deployed are grossly lacking, as a result of which, the troops are made to suffer.

5. On this issue the learned Advocate General submitted that the court may direct formation of a team of top level officers who can meet and take decisions so that all these issues which have been pointed by the Inspector General, BSF are sorted out.

6. The learned Additional Solicitor General further submitted that in terms of the orders issued by this court the Central Forces have been made available to the State for the next ten days. It is submitted that the Chief Secretary and the Director General of the State may be asked to give directions to the district authorities for extending all cooperation for effective utilization of the Force made available by the Ministry of Home Affairs. Further, it is submitted that there will be requirement of constant patrolling, joint patrolling and flag marches for confidence building and to ensure visibility of the Force. The incidents and reports of the violence have to be promptly reported to maintain law and order. Further, it is submitted that all the district authorities may be directed to attach suitable number of local police officers with each company and during the period the Additional Director General (Law and Order) of the State may responsible for liaisoning with the Central Forces, for effective utilization of the Force.

7. In the light of the above submissions, we are of the view that urgent meeting has to be convened by the Chief Secretary of the State of West Bengal in which the

Inspector General, BSF, the Force Coordinator should be invited to participate and the other participants being the Director General of the State of West Bengal, the Additional I.G. (Law and Order) and Home Secretary and such other officers of the State Government as may be required. The Inspector General, BSF, the Force Coordinator shall also be accompanied by such number of officers as he may desire to participate in such meeting. In such meeting a policy level decision to be taken and it shall be the responsibility of the Chief Secretary and the Director General of the State of West Bengal to ensure that those decisions are strictly implemented. The district administration should be issued with clear directions as to what has to be done by them as and when directions are issued. Similarly, the State Police in all the districts shall extend their cooperation. The Nodal Officers who are appointed by the State Election Commission to oversee the election process shall be continued to be deployed in the very same district for next ten days who shall submit daily report to the committee which has been formed consisting of the Chief Secretary, the Inspector General, BSF, the Force Coordinator, the Director General of the State of West Bengal and the Additional I.G. (Law and Order) and other officers with copy marked to the Inspector General, BSF, the Force Coordinator as regards the ground realities which is prevailing in the

district to which he has been nominated as an Observer. In the earlier part of this order we have pointed out that the allegations made in the report submitted by the Inspector General, BSF are very serious and damaging. Therefore, before we take a decision we expect proper response from the State Election Commission to all the allegations made in the report as well as the appropriate authority of the State Government.

8. Let such response be filed in the form of an affidavit not later than 24.07.2023.

9. It is submitted by the learned Deputy Solicitor General that the report filed by the Inspector General, BSF has been served on all the learned advocates for the parties.

10. List these matters on 26th July, 2023 at 2.30 p.m.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(UDAY KUMAR, J.)