

17 03.07.2023
RP Ct. No. 01
AN

WPA (P) 320 of 2023

Nabendu Kumar Bandopadhyay
Vs.
The State of West Bengal & ors.

Mr. Sataroop Banerjee
Mr. Loknath Chatterjee
Mr. Sukanta Ghosh
Ms. Sabita Roy
Mr. Anindya Ghosh

... For the petitioner

Mr. S. N. Mookherjee, Ld. A.G.
Mr. Arka Kr. Nag
Mr. S. Bandopadhyay

... For the State

Mr. Billwadal Bhattacharyya, Ld. DSG 1
Mr. Ayanabha Raha

... For the U.O.I.

Ms. Sonal Sinha
Mr. Tarun Kr. Chatterjee
Mr. Sujit Gupta
Mr. Sayan Datta
Mr. Soumen Chatterjee

... For Election Commission

1. By this writ petition styled as a Public Interest Litigation, the petitioner seeks for setting aside the notification dated 07.06.2023 issued by the Government of West Bengal appointing the State Election Commissioner. The sheet anchor of the arguments of the writ petitioner as understood by this Court is that the West Bengal State Election Commission (Amendment Act), 2010 shall come into force on such date as the State Government may by notification in the official gazette appoint. A notification was issued on 05.10.2010 and it states that the West Bengal State Election Commission (Amendment Act), 2010

has been assented too by the Governor is published for general information. Therefore, it is submitted that the notification which was published in the Kolkata Gazette on 05.10.2010, is not the notification as contemplated under Section 1(2) of the said Amendment Act of 2010. Apart from that, it is submitted that after the Amendment Act of 2010 is being notified, the said enactment loses its validity. As pointed out earlier, the sheet anchor of the case of the petitioner is that the Amendment Act has not been notified in the official gazette and the notification dated 05.10.2010 is only a notification published for general information.

2. Learned Advocate General submits that in exercise of the power conferred in sub-section 2 of Section 1 of the Amendment Act, 2010, the Governor was pleased to appoint 05.10.2010 to be the date on which the Amendment Act shall be deemed to have come into force and a notification to such effect was published on 12.11.2010.

3. In the light of the said factual position, the entire premise on which this Public Interest Litigation as has been founded, has lost its foundation and, hence, no relief can be granted to the writ petitioner in this writ petition.

4. For the reasons stated hereinabove, the instant writ petition stands **dismissed**.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)

