

Item No.SL(2)

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

07.07.2023
Ct-24

WPA 16166 of 2023
Suvendu Adhikari

v.

The West Bengal State Election Commission & Ors.

Mr. Soumya Majumder
Mr. Srijib Chakraborty
Mr. Suman Sankar Chatterjee
Mr. Anish Kumar Mukherjee
Mr. Suryaneel Das
Mr. Aditya Mondal
Mr. Chiranjit Pal

... for the petitioner.

Mr. Sirsanya Bandopadhyay, Ld. JSC.
Mr. Arka Kumar Nag
... for the State.

Mr. Jishnu Saha, Sr. Adv.
Ms. Sonal Sinha
Mr. Sujit Gupta
Mr. Sayan Datta
Mr. Soumen Chatterjee
... for the State Election Commission.

The petitioner is aggrieved by the communication addressed to him by the Inspector-in-Charge, Contai Police Station, Purba Medinipur on July 6, 2023 wherein the Model Code of Conduct which is in force in respect of the Panchayat General Elections, 2023 has been highlighted.

The communication refers to the letter dated July 4, 2023 of the Secretary, West Bengal State Election Commission on the subject-restriction on movement of

political functionaries provided with security on the day of the poll.

The communication dated July 6, 2023 mentions that the political functionaries are not allowed to remain present in any other constituency of which they are not electors after completion of campaign period and till completion of poll. On the date of poll, the visit of political functionaries must be restricted to his/her own allotted polling station for casting of vote and political functionaries are not allowed to move in the constituency freely on the date of the poll unless he/ she is a contesting candidate.

The letter mentions that the addressee is a registered voter of Nandigram constituency and has been asked to adhere to the guidelines mentioned in the letter of the State Election Commission.

The petitioner is aggrieved by the same.

It has been submitted that the Model Code of Conduct in relation to the Panchayat Elections lays down that on the day of the poll, no person who has been assessed to be having a security threat and therefore given official security shall enter the vicinity of a polling station premise (within 100 meters) with his security personnel.

Further, on the date of the poll no such person shall move around in a constituency with his security personnel till the hours fixed for the end of the poll.

The petitioner contends that the Model Code of Conduct restricts movement in and around the

constituency and within 100 meters within the vicinity of the polling station.

The order of the State Election Commission restricts movement in and around the constituency and permits movement only in the allotted polling station on the date of the poll.

According to the petitioner, the aforesaid two restrictions are contrary to each other.

Permission has been sought for to allow the petitioner to move around in the constituency. The petitioner, however, undertakes that he will not move within 200 meters of the polling station.

The submission of the petitioner is opposed by the respondents.

It has been submitted that the State Election Commission being responsible for conducting a free and fair election has imposed reasonable restrictions on movement of the political functionaries. The direction passed by the Commission is in general and is applicable to all the political functionaries of the State. The same is not restricted only to the petitioner and is applicable to everybody irrespective of the political affiliations.

Upon hearing the submissions made on behalf of the parties it appears that the restriction which has been imposed by the Commission appears to be fairly reasonable. The same is liable to be implemented in respect of all the political functionaries irrespective of their political affiliations. The Commission shall ensure that the aforesaid restriction is applied uniformly and

not implemented only in respect of the political functionaries who are in the opposition.

There is no requirement for any further interference in the instant writ petition.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

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(Amrita Sinha, J.)