

15.03.2024
Sl. No. 02.
D/L.
Mithun
Ct.No.23.

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 7850 of 2024

**ITC Limited Workers' Union
(Kidderpore Unit) & Anr.
Vs.
State of West Bengal & Ors.**

Mr. Bikash Ranjan Bhattacharyya,
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Mr. Arka Nandi,
Mr. Saikat Sutradhar,
Mr. Sandwip Sutradhar,
Mr. Sutirtha Nayek,
Ms. S. Ghosh,
Ms. Sinjini Chakrabarti

..for the writ petitioners.

Mr. Dipendra Nath Chunder

...for respondent Nos.8 and 9.

Mr. Susovan Sengupta,
Mr. Manas Kumar Sadhu,
Mr. Suddhadev Adak

...for the State.

Ms. Aritri Roy Chowdhury

...for the respondent.

Mr. Asitava Mukhopadhyay,
Deputy Registrar of Trade Unions, West Bengal
(In person).

Affidavit of service filed in Court today is taken
on record.

In this writ petition the writ petitioners have
challenged an order dated 13th March, 2024 issued by
Sri Sukanta Roy Chowdhury, the Returning Officer and

Joint Labour Commissioner (P), Government of West Bengal which appears at Page 35 of the writ petition. On a perusal of the said order it appears that the election for recognition of Trade Unions in ITC Limited (Kidderpore), 93/1, Karl Marx Sarani, Kolkata – 700043 scheduled to be held on 15th March, 2024 was adjourned until further orders and till such new date of election was decided by the Registrar of Trade Unions.

It is the case of the writ petitioners that the election process for recognition of Trade Unions in M/s. ITC Limited (Kidderpore) was initiated after an application for recognition of Registered Trade Unions was made on 10th October, 2023 by the petitioner No.1 through the petitioner No.2. The notice of election was issued on 21st February, 2024. On the same date Sukanta Roy Chowdhury, Joint Labour Commissioner (P), Trade Unions was appointed as the Returning Officer for such election by the Registrar of Trade Unions. On 22nd February, 2024 the draft electoral list was published and objections thereto were invited before the Returning Officer by 7th March, 2024 in any working day between 11 am to 3 pm. The Returning Officer on 4th March, 2024 issued a memo informing the participants about the venue of the election. This memo appears at page 23 of the writ

petition. By a memo dated 6th March, 2024, the Returning Officer selected the Presiding Officers and made the same known to the participants. The final electoral list was published on 7th March, 2024. The Returning Officer applied for necessary police assistance on 7th March, 2024 vide memo no.76/Recog-04/23/TUR. The Deputy Commissioner of Police, Port Division, Kolkata by a memo dated 13th March, 2024 forwarded the views of the Officer-in-Charge, West Port Police Station to the Registrar of Trade Unions, West Bengal for being acknowledged. The note prepared by the Officer-in-Charge, West Port Police Station, Kolkata was duly signed by the said Officer-in-Charge on 13th March, 2024. The memo issued by the Deputy Commissioner, Port Division and the note of the Officer-in-Charge, West Port Police Station respectively appears at Pages 36 and 37 of the writ petition.

On a perusal of the note given by the Officer-in-Charge, West Port Police Station the following appears:-

"In the above context, it is humbly submit that the Parliament Election 2024 of West Bengal is scheduled to be held very shortly. At PS level election related procedures viz. the daily route march by CAPF

and other vital activities as per Election Commission of India has already been started. In this respect, due to heavy Law & Order commitment out of ensuing Parliament Election 2024 of West Bengal we might not be able to arrange adequate police force on 15.03.2024 for conducting the aforesaid election of Trade Unions in M/s. ITC Limited (Khidderpore)."

The note, therefore, says that the Officer-in-Charge of West Port Police Station might not be able to arrange adequate police force on 15th March, 2024 for conducting the election. The use of word might not clearly indicates that it may not be possible to arrange adequate police force but does not clearly say that it is not at all possible to arrange adequate police force. The reason for might not be able to make adequate arrangement as cited in the note is for Police Station (P.S.) level election related procedure i.e. daily route march by CAPF and other vital activities as per Election Commission of India. It is also stated in the note that the Parliament Election 2024 is scheduled to be held very shortly. Till date no election notification has been published. The reasons cited by the Officer-in-Charge are not at all acceptable.

The Deputy Commissioner, Port Division while considering the note also failed to take into account

the wordings of the note. The concerned Deputy Commissioner also took note initiative although he is the superior officer and empowered to supervise any law and order situation in the Port Division of Kolkata Police requisition adequate force when it was not available at Police Station level.

This Court is not at all satisfied with the reasons cited for not being able to render police assistance.

The Deputy Registrar of Trade Unions, West Bengal is personally present in Court. He says that he has also been appointed as the Assistant Returning Officer for conducting the election in question and produces a memo dated 21st February, 2024 in support of such appointment which is taken on record. The said Deputy Registrar submits on a query from Court that if adequate police arrangement is made, the election can be held on any day. He, however, submits that to make arrangement for the Polling Personnel, the Returning Officer or the Registrar of Trade Unions, West Bengal be given one or two days time for making the arrangement.

The election was scheduled to be held today i.e. on 15th March, 2024 at 3 p.m. All necessary arrangements must have been finalized by 13th March, 2024 when the communication was received. So, it

will not be of much difficulty on the part of the Registrar of Trade Unions/Returning Officer to make arrangements for holding the election tomorrow i.e. on 16.03.2024 (Saturday) at the same venue between the same times on which the election was scheduled to be held today.

The Deputy Commissioner, Port Division of Kolkata Police, the Officer-in-Charge of West Port Police Station and all other police personnel entrusted with the duty to maintain law and order in the precincts of the venue i.e. premises no.93/1, Karl Marx Sarani, Kolkata- 700043 shall ensure proper arrangements on 16th March, 2024 so that the voters can enter the venue freely and cast their respective vote without any intimidation from any corner. The management of ITC Limited and in particular the persons in charge of the management of the establishment at 93/1, Karl Marx Sarani, Kolkata- 700043 shall render all cooperation. The Close Circuit Television Camera (CCTV) footage in respect of any such camera installed at the gate or in and around the venue should be preserved by the management and given to the Returning Officer who shall also make necessary arrangement to preserve the same.

The learned Advocate representing the management of ITC Limited is present in Court and assures on instruction that the management is ready to extend all cooperation as may be directed by this Court. It is also expected that the contesting Trade Unions in the election shall act in a responsible manner.

Nothing further remains to be adjudicated in this application and the same is accordingly disposed of.

Since I have not called for affidavit, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

The parties including the Registrar of Trade Unions/Returning Officer/Assistant Returning Officer and all other concerned shall act on the basis of a server copy downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)