

22.05.2024
(D/L 13)
Ct.-18
(Susanta)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 11020 of 2024
[Assigned]

All India Trinamool Congress
Vs.
Election Commission of India & Ors.

Mr. Pratik Dhar, Sr. Adv,
Mr. Rajarshi Dutta,
Mr. Radhamohan Ray,
Mr. Soumen Mohnaty,
Mr. Ayan Poddar,
Mr. Agnish Basu,
Mr. Soham Dutta,
Mr. Syed Kishwas,
Mr. Riddhi Jain,

... For the Petitioner.

Mr. Sukumar Pattjoshi, Sr. Adv,
Mr. Anuran Samanta

... For the respondent no. 1.

Mr. Ashok Kumar Chakraborty, Sr. Adv.,
Mr. Rajdeep Mazumder, DSGI,
Mr. Arun Kumar Mohanty,
Mr. Bhaskar Prasad Banerjee,
Mr. Debyan Sen,
Mr. Debasish Tandon,

... For the Respondent no.2.

The petitioner is a political party. The petitioner had a pending representation dated April 08, 2024 before the Election Commission of India, the respondent no. 1 herein. The petitioner *inter alia* is praying for a direction upon the respondent no.1 to take appropriate steps in accordance with law, in consideration of the said representation.

Mr. Dhar, learned Senior Advocate for the petitioner submits that the National Investigation Agency, the respondent no.2 herein is investigating some cases in the state. The said cases though are

very old, but one of the officers of the respondent no.2, at the instance of a member of the Bharatiya Janata Party, under the garb of investigation of those cases is harassing the ground-level workers of the petitioner so that the Election campaign of the petitioner gets affected. He further submits that the petitioner has in its possession sufficient material(s) to substantiate its such allegation, and in its said representation has specifically mentioned about it, unfortunately the respondent no.1 is totally inert in this regard.

Mr. Sukumar Pattjoshi, learned Senior Counsel for the respondent no. 1 submits that his client does not have any jurisdiction to transfer an officer of the respondent no.2 who is investigating a pending case. He further submits that his client has already disposed of the representation of the petitioner vide letter bearing No. 464/WB-HP/ES II/2024 dated May 21, 2024.

Mr. Dhar prays leave to file a supplementary affidavit to the writ petition to throw a challenge to the aforesaid letter of the respondent no.1.

It appears that the principal grievance of the petitioner was inertness on the part of the respondent no.1 to respond to the representation of the petitioner, though belatedly it has been responded and has been disposed of with the following observations:-

“Commission was guided by constitutional wisdom when presented with live situations involving political persons which have been under active consideration and orders of the Courts based on criminal investigations. While the Commission remained unwaveringly committed to protection of level playing field and campaign entitlement of political parties and candidates, it has not found it correct to take any step that could overlap or overrun the legal judicial process.”

It is always open for the petitioner to challenge the disposal of its said representation in such a manner, but for the said purpose, the scope of the instant writ petition cannot be enlarged.

WPA 11020 of 2024 is disposed of with the above observations without any order as to costs.

Since no affidavit has been invited, the allegations made in the writ petition are deemed to have denied by the respondents.

Parties to act on the serve copy of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Biswajit Basu, J.)