

11.11.2024
Item No. 2
PG/KS
Ct. No.1

W.P.A.(P) 467 of 2024
Bhanudeb Roy Sarkar
Versus
Election Commission of India & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sayan Banerjee
Mr. Badrul Karim
Mr. Nazmul Alam Sarkar
Mr. Kiron Sk.....for the petitioner

Mr. Anuran Samanta.....for the Election Commission
of India

Mr. Anirban Ray, Ld. Government Pleader
Mr. Sirsanya Bandyopadhyay, Ld. Jr. Standing Counsel
Mr. Debangshu Dinda
Mr. Ritesh Ganguly.....for the State

Mr. Joydip Kar, Sr. Adv.
Ms. Chaitali Bhattacharya.....for the respondent no. 13

1. We have heard the learned advocates for the parties. By this writ petition, the writ petitioner challenges the nomination filed by the 13th respondent stating that there has been suppression of fact and that 13th respondent does not belong to the Scheduled Caste community.
2. Admittedly, the Election notification has been issued, nominations being called for, nominations were filed and scrutinised and the list of valid nominations have been published. The by-election is scheduled to be conducted on November 13, 2024. At this juncture, the writ petitioner, claiming to be a public interest litigant, sent an e-mail on Saturday the November 2, 2024 to the Election Commission of India stating that the

nomination paper of 13th respondent should be cancelled and that on November 5, 2024, the writ petition has been filed.

3. It is settled legal position that once the election process has begun, the question of interdicting the election process that too by way of a writ petition filed under Article 226 and also by way of a public interest litigation cannot be entertained.
4. If at all, a person is aggrieved by the validity of the nomination of any candidate, who offers himself or herself for the elections, the only remedy is by way of election petition. No doubt it is true that Courts have carved out certain exceptions but those exceptions were in respect of cases, where there were monstrosity of the situation, which calls for an extraordinary relief. In the instant case, we find no such situation arising for consideration for the Court to issue any direction in this public interest litigation.
5. Hence, this writ petition is dismissed.
6. No costs.
7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)