

13.05.2025

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Ct. No.7
sdas

WPA 5241 of 2022

Sri Swapan Pramanik
Vs.
The State of West Bengal & Ors.

Mr. Tanmay Basu
Mr. Manas Adak
.....for the petitioner

Mr. Anuran Samanta
..... for the respondent nos. 2 & 3

Mr. Tanmoy Sett
Mr. Mehboob Rahman
..... for the respondent nos. 10 to 13

The present writ petition has been filed seeking a direction upon the concerned respondents to expunge the Voter Identity Cards of respondent Nos. 10 to 13.

The petitioner, in this writ petition, contends that private respondent no. 10 misrepresented herself as the lawful wife of his father, Shri Dhiren Pramanik, since deceased and on the strength of such misrepresentation, fraudulently procured an Aadhaar Card, Ration Card, and Voter Identity Card from the concerned authorities.

Mr. Basu, learned Advocate appearing on behalf of the petitioner, submits that the aforesaid act is patently illegal and warrants immediate intervention by this Hon'ble Court. Accordingly, he prays for an appropriate

direction upon the competent authority to cancel and expunge the Voter Identity Card issued in favour of private respondent no. 10.

Mr. Samanta, learned advocate appearing for the Election Commission of India, submits that pursuant to the complaint lodged by the petitioner, an enquiry was conducted by the competent authority. During the course of the enquiry, it was revealed that private respondent no. 10 has been residing in the said locality for the past ten years, and private respondent nos. 11 to 14 are residing in that locality for more than one year. He further asserts that the Voter Identity Cards in question were issued after following the due process of law, and the authority did not find any illegality in the issuance of the said Voter Identity Cards in favour of the aforementioned private respondents.

Mr. Sett, learned Advocate appearing for respondent nos. 10 to 13, submits that Dhiren Pramanik was the husband of Gita Pramanik. During his lifetime, Dhiren Pramanik executed a Will in favour of Gita Pramanik, who subsequently applied for the grant of probate in respect of the said Will. It is only thereafter that the dispute giving rise to the present writ petition emerged. He further submits that, pursuant to two complaints lodged by the petitioner, two criminal cases have been initiated against respondent nos. 10 to 13. In one of the said complaints, the petitioner has alleged that

the private respondents fabricated a Will with the intention of unlawfully acquiring the properties left behind by Dhiren Pramanik.

Heard the learned advocates representing the parties and perused the materials on record.

The record reveals that a civil proceeding, namely a probate case, is presently pending between the petitioner and the private respondents. Furthermore, based on two complaints lodged by the petitioner, two criminal cases have been initiated against private respondent nos. 10 to 13 — namely, Egra Police Station Case No. 527 of 2021 dated 10.11.2021 under Sections 120B/467/468/471 of the Indian Penal Code, and Egra Police Station Case No. 502 of 2021 under Sections 404/448/341/325/506/34 of the Indian Penal Code. Accordingly, both civil and criminal proceedings are presently pending between the petitioner and private respondent nos. 10 to 13.

Admittedly, in order to maintain a writ petition under Article 226 of the Constitution of India, the petitioner must establish the existence of an enforceable legal right and demonstrate that such right has been infringed, illegally invaded, or is under threat. In the present case, the petitioner has failed to produce any material evidence to show how his existing personal or legal right has been violated by the action of the competent authorities in issuing Voter Identity Cards,

Aadhaar Cards, and Ration Cards in favour of private respondent nos. 10 to 13.

Of late, there appears to be a growing tendency, whenever a civil dispute arises between parties, for one party to initiate multiple proceedings, including criminal cases, against the other as a form of reprisal. The present writ petition seems to be driven more by such retaliatory motives than by any genuine concern for maintaining the sanctity of the electoral roll.

Whether Gita Pramanik misrepresented herself as the wife of Dhiren Pramanik is fundamentally a question of fact, which is currently pending determination before the competent court of law. It is important to note that such a question can only be resolved after evaluating the evidence to be presented by individuals conversant with the facts and circumstances of the case. Therefore, this disputed question of fact cannot be determined in the present writ proceeding, which is a summary proceeding. To accept the petitioner's contention, this issue would need to be resolved first. Furthermore, any comment on this factual issue at this stage may inadvertently influence the outcome of the ongoing civil and criminal proceedings.

Considering this aspect, I am of the view that no interference is warranted in this writ petition.

Accordingly, the writ petition is dismissed.

There shall be no order as to costs.

(Partha Sarathi Chatterjee, J.)