

S/L 7
24.04.2026
Court. No. 25
sourav

WPA 9478 of 2026

**Uluberia Rural Society for Care of Health
& Research Development & Anr.
Vs.
The State of West Bengal & Ors.**

*Mr. Rishabh Karnani
Mr. Sourath Dutt
Mr. Sanjay Kr. Baid*

...for the petitioners.

*Mr. Rajarshi Basu
Mr. S.T. Mina*

...for the State.

*Mr. Asok Kumar Chakraborti, Ld. ASGI
Mr. Arijit Majumdar
Ms. Shreyashi Sarkar*

...for the Union of India.

Ms. Anamika Pandey

...for the Election Commission of India.

*Ms. Sonal Sinha
Mr. Sandipan Das
Ms. Kazi Tania Parveen*

...for the State Election Commission.

Mr. Nilotpal Chatterjee

...for the District Election Officer.

1. The petitioners have filed the present writ application challenging the order dated March 26, 2026 issued by the District Election Officer requisitioning the omnibus of the petitioners for the purpose of election duty on April 25, 2026.
2. Learned counsel appearing for the petitioners submits that after receipt of the order dated March 26, 2026, the petitioners have made a representation to the District Magistrate/District Election Officer on April 10, 2026 informing that this is the omnibus and is being used only for transportation of the teachers of the school and this is

the only bus in the school and if this bus has been taken for the election purpose, the function of the school will be badly affected.

3. Learned counsel for the petitioners further submits that the bus is registered as omnibus and omnibus has been defined under Section 2(29) of the Motor Vehicles Act, 1988 wherein it is mentioned that omnibus means any motor vehicle constructed or adopted to carry more than six persons excluding the driver. He submits that the omnibus is not coming under the purview of the public transport vehicle and thus, the election authorities cannot requisition the omnibus of the petitioners for the purpose of election duty.
4. The petitioners have relied upon the judgment in the case of ***Anirban Ghosh Vs. District Election Officer and Another*** reported in ***2006 SCC Online Calcutta 211*** and submits that in the said case the co-ordinate Bench of this Court has considered all the relevant provisions of the Motor Vehicles Act including Section 2(29) and 2(47) of the Motor Vehicles Act and it has been categorically held that omnibus or the motor car meant for the personal use of the owner cannot come within the purview of the private service vehicle for that class of the vehicles those which are meant for the private commercial use. He submits that once the bus of the petitioners is not meant for the commercial use, accordingly, the election authorities cannot requisition the omnibus of the petitioners for the election purpose.

5. Learned counsel appearing for the District Election Officer submits that the election officer has issued the notice on March 26, 2026 for requisitioning of the bus of the petitioners but the petitioners have filed the present writ application challenging the said order only on April 17, 2026 wherein the election is to be held on April 29, 2026 and the petitioners have to send the buses with the driver on April 25, 2026. He further submits that the authorities have already engaged the private busses but there is a dearth of busses for transportation of paramilitary forces and the staff engaged for election duty for one place to another place to conduct the free and fair poll and, as such, the bus of the petitioner is very much required.
6. He further submits that if at this stage, this Court restrains the authorities for using the bus of the petitioners, at the fag end the election authorities will be prejudiced and the election process will be badly affected. He has further relied upon Section 160 of the Representation of the People Act, 1951 and submits that under the said provisions, the election authorities can very well requisition the bus for the election purpose and, accordingly, the authorities have requisitioned the omnibus of the petitioners for the purpose of the election duty.
7. Learned counsel appearing for the Election Commission of India submits that the judgment relied by the petitioners in the case of **Anirban Ghosh (supra)** has been distinguished by the Hon'ble Division Bench of the

Allahabad High Court and the Allahabad High Court has held that holding election undoubtedly is a public purpose and in the said direction as requisition of private vehicle is for a special circumstances, accordingly, private vehicles as exempted from obtaining permit and to even remotely suggest that while requisitioning private vehicle any of the provisions of motor vehicle has been breached cannot be accepted.

8. Mr. Chakraborti, learned ASGI who usually appears for the Union of India submits that the writ petition is not maintainable as in the present writ application the interpretation of the Motor Vehicle Act as well as the Representation of the People Act is the subject matter but the petitioners have not made the Union of India as a party to the present writ application as required under Order 1 Rule 10(2) of the Code of Civil Procedure and as such, he prays for dismissal of the writ application.
9. Learned counsel appearing for the State submits that the bus belongs to the petitioner no. 2 and registered in the name of the petitioner no. 2. The present writ application is filed by the petitioner no. 1 and made the petitioner no. 2 as a party to the writ application but in paragraph no. 11 of the writ application, the petitioner has admitted that the vehicle is classified as an omnibus under the Motor Vehicles Act, 1988 and it does not fall within the statutory definition of a transport vehicle which alone may be lawfully deployed for hire or public use but as per the registration certificate, it is found that the bus is registered in the name of the petitioner no. 2. It is also

admitted by the petitioners that the bus is being used by the school authority for the purpose of transporting the teachers of the school. Thus, it cannot be said that the bus is not used as transport vehicle.

10. Heard the learned counsel for the respective parties. Perused the materials on record.
11. This Court finds that the District Election Officer has issued the order on March 26, 2026. After the period of 15 days, the petitioners have made a representation to the election authorities and subsequently on April 17, 2026, the petitioners have filed the present writ application. The petitioners had the knowledge that within eight days the petitioners have to bring the said bus before the election authority for the purpose of election duty. The petitioners have relied upon Section 2(29) and Section 2(47) of the Motor Vehicles Act, 1988 which reads as follows:

“2(29) “Omnibus” means any motor vehicle constructed or adapted to carry more than six persons excluding the driver.

2(47) “transport vehicle” means a public service vehicle, a good carriage an educational institution bus or a private service vehicle.”

12. It is admitted that the petitioners’ bus is omnibus as per the registration certificate disclosed by the petitioners. In paragraph no. 5 of the writ application, the petitioners have admitted that the bus is being dedicated for transportation of its teaching and non-teaching staff..
13. The election authorities have requisitioned the bus of the petitioner to be used for transportation of paramilitary forces, police personnel and other staff who have been

engaged for the election duty which is to be held on 29.04.2026. It is the specific case of the respondents that if at this stage any order of stay is passed for using the bus of the petitioner for election duty, the election process will be badly affected

14. In the case of ***Arvind Kumar Vs. State of Uttar Pradesh and Anorther*** passed in ***WP(C) No. 5295 of 2017***, the Hon'ble Division Bench o the Allahabad High Court has held that looking into the nature and object of the Motor Vehicle Act and looking into the nature of 1951 Act, there is no conflict or repugnancy *inter se* both the statutory provisions and both are holding the field in their respective domains, as such, the Division Bench of the Allahabad High Court was of the view that there is no dearth of authority in requisitioning of the private vehicle and the challenge made on the said score is, accordingly, turned down.
15. In the present case, the petitioners are claiming that the vehicle is the public vehicle and the authorities cannot requisition the bus for the election purpose but this Court finds that only for the free and fair polling, the election authorities are requisitioned the said bus and the election is to be held on April 29, 2026 and the petitioners have to report the bus on April 25, 2026. Thus, at this state, if any order is passed, the election authorities will suffer badly and the election will be affected.
16. Accordingly, this Court does not find any merit in the present writ application. **WPA 9478 of 2026** is dismissed.

17. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)