

22.04.2026
SL No.1
Court No.12
(gc)

MAT 720 of 2026
CAN 1 of 2026

Election Commission of India & Ors.
Vs.
South Point Education Society & Ors.

Mr. Jishnu Chowdhury, Sr. Adv.,
Mr. Abhidipto Tarafder,
Ms. Sanskriti Agarwal,
Ms. Anamika Pandey,
Ms. Rishika Pandey,
Mr. Ghanshyam Pandey

...for the Appellants.

Mr. Biswaroop Bhattacharyya,
Mr. Pratik Majumdar,
Mr. Ayan Chakraborty,
Mr. Subhrajit De,
Ms. Sohini Mukherjee

.....for the Respondent Nos.1 & 2.

Mr. Nilotpal Chatterjee,
Ms. Tanushree Dasgupta

....for the District Election Officer.

1. This appeal is directed against an order dated April 16, 2026. By the order impugned, the learned Single Judge set aside and quashed the requisition issued by the police authorities as well as the Regional Transport Officer requiring eight buses of the South Point Education Society. His Lordship was of the view that unless the Election Commission could satisfy compliance of the Circular dated February 8, 2023, especially Clause 3 thereof, the police authorities or the transport authorities did not have any jurisdiction to

requisition the buses, especially because those buses belong to an educational institution. His Lordship recorded that, although the school buses are defined as “transport” under the Motor Vehicles Act and in exercise of power under Section 160 of the Representation of the People Act, 1951, the Commission can requisition school buses, this should be avoided, unless absolutely necessary. Inadequacy of transport facility to conduct the election process, must have been recorded in the decision to requisition buses by the Commission. Such requisition by the appellants or the transport department was illegal.

2. Mr. Jishnu Chowdhury, learned Senior Advocate for the appellants and Mr. Nilotpall Chatterjee, learned Advocate for the DEO submit that many of the school buses have been requisitioned. The writ petitioner has not been singled out. Out of eight buses, five buses have already been de-requisitioned and only three buses would be required. The requirements of school buses were precisely for their sitting capacity. A large number of security personnel, people of the respective parties who go to the booths, following the vehicles carrying the EVM machines, have to be

accommodated. The requisition was neither fanciful nor arbitrary.

3. We appreciate the concern of the Election Commission and the DEO. We had requested Mr. Biswaroop Bhattacharya, learned Advocate for the South Point Education Society to take instructions. We have been informed that two buses can be spared by the Education Society without creating any disturbance to the regular functioning of the school. The Circular of 2023 also provides that school buses should be requisitioned as the last resort.
4. We are satisfied that these two buses are probably required in an extreme situation and especially because only a few days are left for the second phase of election.
5. Under such circumstances, the order impugned is not interfered with, but we modify the order to the extent that the writ petitioner, that is the South Point Education Society, will hand over two buses along with its drivers for the service of the Election Commission at the place/venue, mentioned in the requisition notice. In the event, the classes on 28th April, 2026 are conducted through online mode, those two buses will be handed over at the designated place within 10.00 a.m. and in the event

28th is a regular school day with physical class, the said buses will be handed over at 5.00 p.m at the same place, with the driver.

6. The school as also the Election Commission are represented before this Court and this order is passed in their presence.
7. It is made clear that the buses will be released and allowed to return to their destination/garage within 9.00 p.m. on 29th April, 2026.
8. Accordingly, the appeal and the connected application are disposed of.
9. The questions of law urged by both the parties are kept open.
10. As the school buses are especially used by children, the buses should be returned to the school in the condition in which they were received. The buses will be used as per law and relevant terms and conditions will apply.
11. There shall be no order as to costs.
12. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)