

7 to  
16  
SG  
GD/SSD  
ss/jks 20.04.2022

WPA(P) 142 of 2021  
With  
CAN 1 of 2021  
CAN 3 of 2021  
CAN 5 of 2022  
Susmita Saha Dutta  
Vs.  
The Union of India and Ors.

With  
CPAN 667 of 2021  
Anindya Sundar Das  
Vs.  
Sanjay Sarkar

With  
WPA(P) 143 of 2021  
With  
CAN 2 of 2021  
CAN 3 of 2022  
CAN 4 of 2022  
Anindya Sundar Das  
Vs.  
Union of India and Ors.

With  
WPA(P) 144 of 2021  
With  
CAN 2 of 2021  
CAN 3 of 2021  
CAN 4 of 2022  
Priyanka Tibrewal  
Vs.  
The State of West Bengal and Ors.

With  
WPA(P) 145 of 2021  
With  
CAN 2 of 2021  
Pradipta Arjun  
Vs.  
Union of India and Ors.

With  
WPA(P) 146 of 2021  
Smt. Aparajita Mitra  
Vs.  
The Union of India and Ors.

With  
WPA(P) 147 of 2021

With  
CAN 2 of 2021  
Kuntal Mojumder  
Vs.  
Union of India and Ors.

With  
WPA(P) 148 of 2021  
With  
CAN 1 of 2021  
CAN 3 of 2021  
Susheel Kumar Pandey  
Vs.  
State of West Bengal and Ors.

With  
WPA(P) 149 of 2021  
With  
CAN 2 of 2021  
CAN 3 of 2021  
Marufa Bibi and Ors.  
Vs.  
State of West Bengal and Ors.

With  
WPA(P) 167 of 2021  
With  
CAN 2 of 2021  
Kashinath Biswas  
Vs.  
Union of India and Ors.

Mr. Kali Charan Mishra  
... for the CBI in WPA(P) 142 of 2021  
Mr. Rajendra Banerjee  
Mr. Anup Dasgupta  
Mr. Debapriya Samanta  
Mr. Lokenath Chatterjee  
Ms. Avipsa Sarkar Chatterjee  
Ms. Taslima Khatun  
Mr. Abhijit Roy  
Mr. Arka Bhattacharjee  
... .. for the petitioner in CPAN 667 of 2021  
and WPA(P) 143 of 2021  
Mr. Uday Shankar Chattopadhyay  
Mr. Pranoy Basak  
... .. for the applicant in CAN 3 of 2022  
in WPA(P) 143 of 2021  
Ms. Priyanka Tibrewal  
... .. petitioner in-person in WPA(P) 144 of 2021  
Mr. Kallol Basu  
Mr. Suman Banerjee  
... .. for WBHRC in WPA(P) 144 of 2021  
Mr. Subir Sanyal  
Ms. Sumouli Sarkar

... ... for NHRC in WPA(P) 144 of 2021

Mr. Samim Ahmed  
Ms. Salini Bhattacharya  
Ms. Gulsanwara Pervin

... ... for the Petitioners in WPA(P) 149 of 2021

Mr. S.N. Mookherjee, AG  
Mr. Anirban Ray, GP  
Mr. Raja Saha  
Mr. Debashish Ghosh

... ... for the State

Mr. Ayan Bhattacharyya  
Mr. Ayan Poddar

... ... for the SIT

**Re. WPA(P) 142 of 2021**

Learned counsel for the CBI has filed fifth status report on post-poll violence cases in the State of West Bengal. The report reveals that as on 16.04.2022 58 cases were registered with the CBI and out of those 58, 47 were received from NHRC and 11 were registered upon the individual complaints. In 26 cases charge-sheets have been filed and in 20 cases further investigation is going on. The report further reveals that 6 cases have been transferred from SIT as per the mandate of the order of this Court and as on date, 26 cases are under investigation. As per the report, 250 accused persons have been charge-sheeted and 224 accused persons have been arrested. The report also mentions the order of this Court dated 03.01.2022 whereby the CBI was granted liberty to approach the SIT or the State Government if CBI comes to know about any case of post-poll violence which was required to be investigated by the CBI as per earlier order of this Court. In the report it is mentioned that two more cases are falling in the category of post-poll violence pertaining to the same incident having allegation

of murder and these cases are – (1) Mathabhanga PS FIR No.180/2021 dated 10.04.2021 and (2) Mathabhanga PS FIR No.181/2021 dated 12.04.2021. In the report a request was made to the DGP, West Bengal vide letter dated 06.01.2022 to hand over these cases to the CBI which was followed by the reminders dated 21.01.2022 and 11.03.2022 but these two cases have not been handed over by the State police to the CBI.

Learned counsel for the CBI is directed to supply a copy of the report alongwith the letter dated 06.01.2022 and reminders dated 21.01.2022 and 11.03.2022 to learned Advocate General who will duly look into the above allegations and respond to the same or will do the needful on or before the next date of hearing.

The SIT has also filed the report which reveals that 35 cases were returned from the CBI to the SIT as on 18.04.2022 and in 31 cases the charge-sheets have been filed and in one case the closure report has been filed. The report further reveals that one case relates to non-cognizable offence and one relates to unnatural death and one case is under investigation.

The reports are taken on record.

Learned counsel for CBI and SIT are directed to file further report on the next date of hearing.

**Re. CPAN 667 of 2021**

Learned counsel for petitioner seeks time to file the relevant material in support of the plea taken in the matter.

**Re. WPA(P) 143 of 2021**  
**With**  
**CAN 2 of 2021**  
**With**  
**CAN 3 of 2022**  
**With**  
**CAN 4 of 2022**

In CAN 2 of 2021, no one is present for the applicant. Hence CAN 2 of 2021 is dismissed in default.

CAN 3 of 2022 has been filed by the applicants Madhabi Sarkar and Biswajit Sarkar with the plea that they are the victims of post-poll violence and their houses, properties etc. were vandalized and they were assaulted and the brother of the applicant No.2 was murdered in the incident which took place on 02.05.2021.

In terms of the Larger Bench order of this Court dated 19.08.2021 passed in WPA(P) 142 of 2021 and connected matters, the compensation is payable to the victims. The application further mentions that several other victims of the post-poll violence have already been granted the compensation.

Learned counsel for the applicants has drawn the attention of this Court to the representation dated 11.03.2022 addressed to the Chief Secretary, Government of West Bengal and the Secretary, Department of Home & Hill Affairs, Government of West

Bengal claiming the compensation and has submitted that no action on the said representation has been taken.

Learned Advocate General fairly submits that the representation made by the applicants will be duly considered and an appropriate decision on the representation will be taken by the Chief Secretary, Government of West Bengal within a period of two months.

Hence, we dispose of CAN 3 of 2022 directing the Chief Secretary to the Government of West Bengal to take an appropriate decision in accordance with law on the applicants' representation dated 11.03.2022 as expeditiously as possible preferably within a period of two months from today.

In CAN 4 of 2022, a prayer is to issue a direction to the State authorities to formulate a policy regarding payment of compensation to the victims of post poll violence and to make payment to such victims within the time-bound period.

Learned Advocate General seeks time to file reply to this application.

**Re: WPA(P) 144 of 2021**

The petitioner, present in person, has submitted that as many as 303 persons, who were displaced during the elections and post-poll violence, prevented from coming back to their residential houses or joining back their work place or those whose houses have been

destroyed, have given the affidavits disclosing the circumstances and subsequently also she has received the request from additional about 100 persons standing on the same footing.

At the request of the petitioner, earlier we had directed the West Bengal Human Rights Commission as also the National Human Rights Commission if they are agreeable to form of two-Member Committee comprising of one Member from each Commission.

Learned counsel for the West Bengal Human Rights Commission has submitted that the Commission is agreeable to be a part of the Committee but it does not have the sufficient manpower, therefore, D.G., West Bengal should be directed to provide manpower support and it is also short of funds, therefore, the funds should be provided. He has also referred to Section 21(5) Proviso, Section 36(1) and Section 2(c) and Section 2(n) of the Protection of Human Rights Act, 1993 and has submitted that such an enquiry does not fall within the statutory functions of the West Bengal Human Rights Commission.

Learned counsel for the National Human Rights Commission has expressed the willingness to undertake such an enquiry and has also referred to five Judges' Bench order dated 18.06.2021 passed in WPA(P) 142 of 2021 and has submitted that Larger Bench of this Court at the earlier occasion had formed the Committee and the

said Committee had enquired into the similar issue and had submitted the report.

The petitioner, present in person, has also submitted that by the order dated 18.06.2021 a Committee was constituted which had examined the grievance of similarly situated persons and had submitted the report.

Learned Advocate General has made a submission that the Committee, so formulated, should be a Committee of two Members and not larger number and that the State should have an opportunity before that Committee.

Having regard to the submissions which have been made by counsel for the parties, we deem it proper to constitute a Committee comprising of the following:

- “1. A Member/nominee of the National Human Rights Commission;
2. A Member/nominee of the West Bengal Human Rights Commission; and
3. Secretary, West Bengal State Legal Services Authority.”

We make it clear that if any one of the above three members does not participate then other two members of the Committee will proceed with the matter.

The petitioner is permitted to file the complaints/affidavits of the displaced persons before the Committee so constituted which will inquire into the right of the displaced persons of rehabilitation and to return back to their place of abode and place of work.



**Re: WPA(P) 149 of 2021**

Learned counsel for the petitioners has filed the supplementary affidavit dated 4<sup>th</sup> April, 2022. Paragraph 3 of the affidavit contains the details of 58 victims who are forced to leave their houses during post poll violence and have not been allowed to return to their residence.

Learned Advocate General has submitted that he will duly look into the list and file the report.

Another supplementary affidavit affirmed today has been filed.

Submission of learned counsel for the petitioners is that some of persons who were forced to leave their houses during post poll violence had filed the complaints before the NHRC which were referred to the concerned SP who in turn had sent them to the concerned police station and though the persons have been allowed to return to their houses but the police along with the local goons of the ruling party has threatened them and that some of them have even been required to pay penalty for returning to their houses.

The paragraphs of the supplementary affidavit which contains the details of such incident are as follows:

“2. I say that in my affidavit dated April 4, 2022 it has been specifically stated that the police authorities are acting in connivance with the leaders of the ruling party in the State. Thousands of people made complaints regarding post-poll violence that they had suffered. Those victims whose particulars were disclosed in the writ

petition have not yet received any compensation for the loss that they had suffered. Despite intervention of this court none of them was provided with actual protection. As a result of which they had to succumb to the threat of the leaders of the ruling party and their goons and paid penalty demanded by the goons of ruling party so that they can return to their residence. For example Monirul Jamadar, son of Mobarak Jamadar of Village Ram Rayer Bheri, Post Office Iswaripur, Police Station Jibantala, District South 24 Parganas, Tomir Sardar, Son of Doulat Sardar of Village Ram Rayer Bheri, Post Office Iswaripur, Police Station Jibantala, District South 24 Parganas paid sum of Rs.5000/- and Rs.30000/- respectively to the Booth President of All India Trinomul Congress namely, Mojaffar Lashkar, son of Mojam Lashkar of Village Ram Rayer Bheri Post Office Iswaripur, Police Station Jibantala, District South 24 Parganas for the purpose of returning to their residence. One Giyasudding Fakir, son of Anar Fakir of Village Sadurayit, Post Office Chandaneswar, Police Station Bhangor, District South 24 Parganas, Jakir Molla son of Jamsher Molla of Village Jalalabad, Post Office Chandaneswar, Police Station Bhangor, District South 24 Parganas had paid Rs. 130000/- and Rs.100000/- to the Block President of Bhangore No.1 Block namely, Sajahan Molla, son of Mojammel Molla of Village Jalalabad, Post Office Chandaneswar, Police Station Bhangor, District South 24 Parganas for returning home. Those victims had made complaint relating to post poll violence to the Superintendent of Police of Baruipur Police District as well as to the national human rights commission. Sample copies of few

complaints are annexed hereto and marked as annexure A.

3. I say that in fact in few police stations the concerned police officers forced the victims to withdraw their complaints. For example officer-in-charge of Bhangore Police Station namely, Sayed Rejaul Kabir, Sub-Inspector Refajul Mondal etc detained the victims in a room of Bhangore Police Station more than six hours for making complaints. The victims were threatened in the said police station by those police personnel. Police personnel of the said police station are visiting the residence of victims along with the local leaders of ruling party to call them in the police station. Such undue pressure was created by police by using his official position. Involvement of said Bhangore Police Station particularly the officer-in-charge and Refajul Islam (SI Bhangore Police Station) in post poll violence is enormous. Only few people of the area could gather courage to make complaint against the hooligans of ruling party or the police. Complaints were made to that effect by those victims. Copies of few complaints are annexed hereto and marked as annexure B.”

Learned Advocate General has prayed for time to file the response to this affidavit.

Since this Court has already constituted a Committee, therefore it will be open to the petitioners to approach the said Committee along with the details of the displaced persons who have a right to come back.

List on 19<sup>th</sup> May, 2022.

**(Prakash Shrivastava, C.J.)**

**(Rajarshi Bharadwaj, J.)**