

CPAN 98 of 2022
Bimal Bhattacharya
Vs.
Shri S. K. Das and Another
in
WPA(P) 4 of 2022
Bimal Bhattacharya
Vs.
The State of West Bengal and Others
(Through Video Conference)

Mr. Bikash Ranjan Bhattacharyya, Id. Senior Advocate
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Mr. Arkadeb Biswas,
Ms. Dipa Acharya, Advocates
... for the petitioner

Mr. Jishnu Saha, Id. Senior Advocate
Ms. Sonal Sinha,
Mr. Avishek Prasad, Advocates
... for the alleged contemnors

This petition for initiating the contempt proceedings against the respondents has been filed alleging non-compliance of the order of this Court dated 13th of January, 2022 in WPA(P) 4 of 2022.

WPA(P) 4 of 2022 was filed challenging the notification dated 28th of December, 2021 declaring the dates of election of four Municipal Corporations, namely Siliguri Municipal Corporation, Chandernagore Municipal Corporation, Bidhannagar Municipal Corporation and Asansol Municipal Corporation which were notified to be held on 22nd of January, 2022. The prayer for postponement of the dates of the elections was made on the plea of rapid increase of COVID-19 infection

in the third wave of pandemic. This Court considering the material placed before this Court and taking note of submission of Counsel for the parties had disposed of the petition with the following directions:

“Hence, we dispose of the present petition with a direction to the State Election Commission to consider the galloping speed with which the COVID cases are increasing and also to take into account the issue if holding of elections in such a situation will be in the public interest and if free and fair elections will be possible on the dates notified, and take a decision in respect of the postponement of date of elections of aforesaid four Municipal Corporations for a short period of 4 to 6 weeks. The respondent State Election Commission is directed to take a decision in this regard within a period of 48 hours. It will be open to the petitioner to submit all the relevant material relating to existing COVID situation before the Election Commission without any delay so that it can be considered by the Election Commission while taking the decision.”

Submission of learned Counsel for the petitioner is that in terms of the above directions the respondents were directed to postpone the elections for 4 to 6 weeks and, that they have violated the order of this Court by postponing the elections only for 3 weeks.

Having heard the learned Counsel for the petitioner and on perusal of the record, we have noticed that this Court had not issued any positive direction to

postpone the elections for a particular period of time, but had directed the State Election Commission to consider the speed of increasing COVID cases and also take into account the issue of free and fair election and public interest in holding the elections in such a situation on the notified date and to take a decision for postponement of the elections for short period. The period of 4 to 6 weeks mentioned in the order was only suggestive leaving it upon to the State Election Commission to take a decision in this regard within a time bound period. Thereafter, the Election Commission took a decision to postpone the dates of elections by 3 weeks and has now appointed 12th of February, 2022 as the date of polling.

Having regard to the nature of the order passed by this Court and considering the fact that there was no positive direction in the order of this Court, we are of the opinion that there is no deliberate non-compliance or violation of the order of this Court by the respondents herein, hence no case for initiating the contempt proceedings is made out. The contempt petition is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Ajoy Kumar Mukherjee, J.)