

10.07.2023
Supp. Item No.1
RP
Ct. No.1

WPA (P) 351 of 2023

**ADHIR RANJAN CHOWDHURY
VS
THE WEST BENGAL STATE ELECTION
COMMISSION & ORS.**

Mr. Adhir Ranjan Chowdhury
... Petitioner appearing in person

Mr. S.N. Mookerjee, Ld. Advocate General
Mr. Anirban Ray, Ld. GP
Mr. Amal Sen
Mr. Arka Nag
Ms. Sahina Sumi
... For State

Mr. Jishnu Saha, Sr. Adv.

... For West Bengal State Election Commission

Mr. Sabyasachi Chatterjee
Mr. Imtiaz Ahmed
Mr. Shamik Bagchi
.....Intervenor

1. This writ petition has been filed as a public interest litigation by Mr. Adhir Ranjan Chowdhury appearing in person. In the writ petition, essentially there are three prayers, the first of which is made to cause an investigation monitored by a Sitting Judge of this Court to be done by an independent agency to investigate into the cause of death of several persons as well as the persons, who have been injured.
2. The second limb of the prayer is to direct all the complaints in respect of the death and serious injuries

received by the citizens to be investigated by a Central agency and to give adequate compensation to the family members of the deceased and injured persons by the respondent authorities.

3. The third prayer is for deployment of adequate Central forces in an around the counting centres surrounding 100 meters of the counting centres.

4. So far as the third prayer is concerned with regard to deployment of Central forces, orders and directions have been issued by this Court on two earlier occasions followed by order in contempt application as well, which has been heard by a different Division Bench. Therefore, at this juncture, the prayer regarding deployment of Central forces cannot be considered in this writ petition as it is already being dealt with in other matters.

5. With regard to the first prayer sought for investigation by a Central agency to be monitored by a Sitting Judge of this Court, such a relief will be considered after the respondents file their affidavit. The immediate aspect, which is to be addressed is with regard to the medical treatment that has to be offered to the persons, who are being injured due to the alleged violence, which took place on the date of polling i.e. 8th July, 2023.

6. The next important aspect is with regard to how the people, who have lost their lives have to be dealt

with and how their families have to be consoled and what assistance has to be extended to the families of the deceased victims.

7. With regard to the allegations that the Government Hospitals in the relevant areas are not properly equipped to offer medical assistance to the injured victims, the learned Advocate General points out that in the writ petition, there is no specific averment and if there was a specific averment, the appropriate respondent would have placed the necessary instructions, which could have in turn be placed before this Court.

8. We agree with the learned Advocate General that in the writ petition there are no specific instances as to in which hospital the medical facilities are inadequate. However, the respondent/State does not object to any observations or directions that may be issued by this Court in this regard.

9. In the light of the above, we direct the respondent/State to ensure that all the injured victims are given the best of treatment in the Government hospitals. However, if in the opinion of the treating doctors, the injured victims require more special care, which is not available in those medical centres, necessary arrangements be immediately made for transferring those injured victims to bigger hospitals for

immediate medical treatment, care and assistance. This direction shall be implemented forthwith.

10. With regard to the people, who have lost their lives, since it is alleged that it is on account of the violence, which occurred on 8th July, 2023, necessarily in all cases, where people have lost their lives, F.I.R.s have to be registered and post-mortem have to be performed. Needless to state that the post-mortem be videographed and the injuries sustained by the victims be appropriately noted and placed before this Court in the form of a report.

11. If the families are willing to receive the bodies of the persons, who have lost their lives, then necessary arrangements have to be made for the said families to perform the last rites and the State machinery shall endeavour to make all arrangements in this regard by deputing its officers to approach the family of the deceased victims to render all assistance.

12. With regard to the prayer for payment of compensation is concerned, the same will be considered after a report is filed by the appropriate authority of the respondents. In page 138 and 139 of the annexure to the writ petition, which are photocopies of Bengali daily, photograph has been published showing a person holding pistol in broad daylight. It is not in dispute the video footage of the same was widely circulated in the media on 9th July,

2023. The learned Advocate General while submitting the report shall also inform as to whether the said person has been apprehended and arrested and as to whether he has been put to judicial custody.

13. Mr. Jishnu Saha, learned Senior counsel appearing for the State Election Commission submitted that today 696 seats have been ordered for re-poll and polling is going on and as per the instructions received, the polling is peaceful in all the 696 polling stations. With regard to counting centres, it is submitted that there are 339 counting centres and the safety and security of the ballot boxes and the counting process, which is to begin has been sufficiently secured and one company of Central Forces plus State armed police forces have been deployed for each one of the 339 counting centres. It is the further submission that the orders issued earlier by this Court are being scrupulously followed. The said submission is placed on record.

14. The learned senior advocate appearing for the State Election Commission further pointed out that a hand book has been issued to the Returning Officers in which it is clearly stipulated as to who can be present at the time of counting. It is the apprehension of the intervenor that sympathisers of the various political parties will crowd outside the counting centres, which may result in breach of peace. It is his prayer that an

order under Section 144 of the Code of Criminal Procedure has to be passed. It is the submission on behalf of the State Election Commission that one company of the Central Forces along with the State Armed Police Forces have been deployed for each 339 counting centres. It goes without saying that the handbook of procedure, which was published for the Returning Officers is scrupulously followed and the area around the counting centres must be cordoned off so that the sympathisers and the members of the various political parties do not crowd near the counting centres.

15. The Inspector General, B.S.F., Nodal Officer, who has been appointed for deployment of Central Forces shall file a report before this Court as regards the violence, which took place in various booths during the election on 8th July, 2023. This report would be of significance because it is a submission of the petitioner appearing in person as well as the intervenors that there has been large scale rigging of the elections in various booths spread over the State and instances have been given in respect of four districts and the copy of the e-mail sent to the State Election Commission has been handed over to the learned senior advocate appearing for the State Election Commission. Therefore, it is submitted that the figure of 696 booths chosen for re-polling is not the correct number and in the

conservative estimate of the intervenor, re-polling should be ordered in nearly 50,000 booths throughout the State of West Bengal. Since this averment made by the intervenor, who is, in fact, the writ petitioner in W.P.A.(P) 339 of 2023 is not on record in the form of an affidavit, we will take note of the submission as and when the same is brought on record by way of an affidavit.

16. In the earlier part of this order, we have issued a direction that the person, who was carrying a pistol in his hand and whose photograph has been widely published, has to be arrested. Learned Advocate General on instruction submitted that the said person has been identified as Dhiraj Hela and a case has been registered on the file of Mohanpur Police Station and he was produced before the court of Additional Chief Judicial Magistrate, Barrackpore and he has been given police custody till 12th July, 2023. The police is directed to produce the said accused before the concerned Court on 12.07.2023 in terms of the order passed by the learned Additional Chief Judicial Magistrate. Needless to state that a further report in this regard will be called for on the next hearing date.

The petitioner appearing in person submitted that a notice was sought to be served in the office of the Central Government. However, such notice was refused to be accepted.

17. Today, we find that the Central Government is not represented by any counsel. Nevertheless we have called for a report from the Inspector General, BSF, the Nodal Officer, who has been appointed for deployment of forces for Panchayat election. The Registry of this Court is directed to communicate a copy of this order to the office of the learned Additional Solicitor General in course of this day.

18. List the matter on 12th July, 2023.

(T. S. SIVAGNAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)