

**WWW.LIVELAW.IN**  
**W.P.No.7698 of 2021**  
**and**  
**W.M.P.No.8246 of 2021**

**THE HON'BLE CHIEF JUSTICE**  
**and**  
**SENTHILKUMAR RAMAMOORTHY, J.**

(made by the Hon'ble Chief Justice)

This is a petition by one of the leading political parties in the State, seeking certain directions on the Election Commission to ensure the free and fair conduct of the coming State Assembly Elections.

2. The first point made on behalf of the petitioner is that since the Election Commission has conceived of videography and web-casting in addition to CCTV coverage of critical events, paragraph 21 of the press note dated February 26, 2021 has to be implemented in letter and spirit. Such provision records that the Commission has directed that web-casting, CCTV coverage, videography and digital photographing will also be deployed inside critical polling booths and in vulnerable areas to closely monitor the proceedings on the poll day without violating the secrecy of the voting process. The petitioner says that, ordinarily, meetings are held well in advance whereat the Election Commission calls recognized political parties to ascertain which of the

areas may be vulnerable or which of the polling booths may be critical. The petitioner says that political parties have their inputs and the apprehension of political parties pertaining to particular booths or constituencies or areas should be taken into account by the Election Commission, if cogent grounds exist therefor.

3. The petitioner says that all that the petitioner seeks is to ensure that the citizens are free to vote at the ensuing elections as per their will and without being influenced or pressurized in any manner. The videography of critical polling stations and even web-casting of the activities inside polling booths are crucial in such regard to dissuade unfair practices being indulged in.

4. The second aspect that the petitioner brings up is the use of electronic voting machines. According to the petitioner, it is the accepted norm that such machines function well for a period of 15 years and they run into disuse thereafter or become faulty. The petitioner seeks a direction on the Election Commission to only use voting machines that are less than 15 years old and to discard the voting machines which are more than 15 years old.

5. The petitioner also makes a point that just as the voting machines are stored in a strong-room after the elections are conducted to ensure that they are not tampered with in any manner, it should also be made mandatory for videographing or installing CCTV in the places where the voting machines are to be stored prior to the voting machines being sent to the constituencies. The apprehension of the petitioner is that once the names of the candidates are finalised, and since the names are arranged in an alphabetical order, it would not be difficult to pin-point the number or the panel which is allotted to a particular candidate based on where his name figures in alphabetical order among the list of candidates in that constituency. The petitioner seeks that EVMs be monitored and kept under close watch while they are stored so that when they are sent to the constituencies they cannot begin with several votes having been cast in respect of a particular serial number on the panel. It, thus, requires to be ascertained from the Election Commission as to whether the EVMs are sealed and whether the seals thereto are broken only upon the machines reaching the relevant constituency.

6. Two further requests have been made by the petitioner: for jammers to be installed outside the strong-rooms where the EVMs are

stored after the election is completed; and, for Rule 66 of the Conduct of the Elections Rules, 1961 to be followed in its application to Rule 56C and the counting of the printed votes in a polling booth where paper trail has been maintained.

7. As far as the issue of closely monitoring critical polling booths and vulnerable areas are concerned, the Election Commission says that appropriate measures have been taken and there is still sufficient time for political parties to be consulted in such regard. It would have been better if a specific date had been notified much earlier for the consultation process to be conducted. There is no doubt that political parties may have a better feel for which of the areas may be vulnerable or which polling station may be critical. While a lot of the submission on behalf of the political parties would be, as expected, politically motivated, to the extent cogent grounds are made out to treat certain polling booths as critical booths and certain other areas as vulnerable areas, the Election Commission must listen to the political parties and take a considered decision upon due deliberation. The political parties should be informed well in advance as to which booths would be regarded as critical booths and which areas vulnerable and the extent of videography, use of CCTV, web-casting and monitoring

that may be implemented.

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8. It must also be indicated in the context that if police or para-military forces are brought from outside the State to augment the resources here, such personnel must be deployed in an equitable basis and may be allotted particular critical booths or vulnerable areas so that the influence of the local personnel, who may owe political allegiance to one group or the other, may be minimized.

9. As to the installation of jammers, it does not appear that EVMs are such that can be tampered with without touching them. To the best of this Court's knowledge, EVMs may not carry any chips that may be accessed without touch. However, the Election Commission will indicate its considered view of such aspect.

10. A strong case made out for installation of CCTV around the strong-rooms or other places where the EVMs may be considered so that it is foolproof and no unauthorized access may be possible at such places.

11. Finally, to the matter of ascertaining whether the paper trail maintained tallies with the EVM results. The Election Commission says that in terms of a Supreme Court order five EVM machines per constituency may be checked on a random basis to ascertain whether the results tally with the results evident from the paper trail. To such extent, if a request is made by a candidate, the Election Commission may allow the same, but no direction may be issued to the Election Commission that may result in a candidate apprehensive of losing delaying the declaration of results by requiring the entire paper trail to be counted.

12. The Election Commission has represented that it will come up with a detailed answer to the several issues raised by the petitioner when the matter appears next on March 29, 2021. The counter-affidavit to be used by the Election Commission should be forwarded by e-mail to counsel for the petitioner at least by 6pm on March 28, 2021.

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13. In course of this week, a meeting must be scheduled by the Election Commission with recognized political parties in the State to seek their views on the critical polling booths and vulnerable areas.

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Upon taking into consideration the views of the recognized political parties, a list of the critical polling booths and a list of vulnerable areas ought to be indicated by the Election Commission in the counter-affidavit that is to be filed in this matter. Since the Election Commission has itself proposed the idea of videographing postal ballots to the larger number of voters exercising their franchise at the ensuing elections otherwise than by attending a polling booth, it is expected that the videography of critical polling booths, the possible web-casting of what actually goes on inside and installation of CCTV would be in much greater extent in the ensuing elections than earlier. The primary objects of the Election Commission should be to ensure that the ordinary voter is satisfied that the process is free and fair and that the incidents of booth-capturing or rigging or tampering with machines are reduced to the level of the insignificant.

14. The matter will appear on March 29, 2021.

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(S.B., CJ.) (S.K.R., J.)

**24.03.2021**

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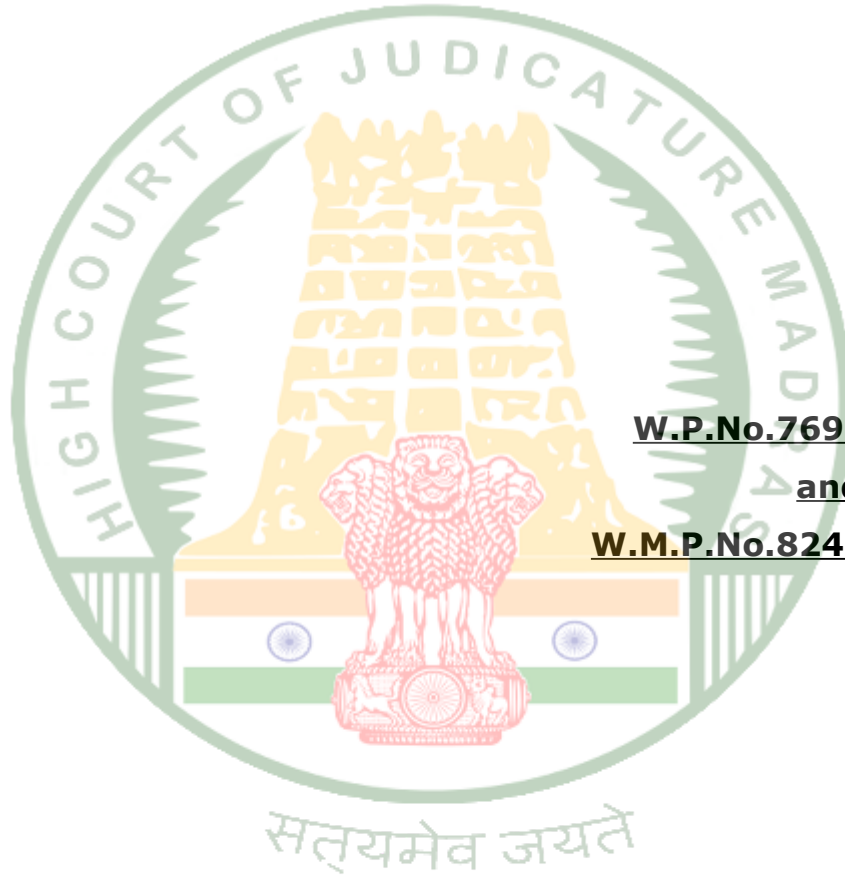
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