

WPA (P) 142 of 2021

With

CAN 1 of 2021

Susmita Saha Dutta

Vs.

Union of India & Ors.

With

WPA (P) 143 of 2021

Anindya Sundar Das

Vs.

Union of India & Ors.

With

WPA (P) 144 of 2021

With

CAN 2 of 2021

Priyanka Tibrewal

Vs.

The State of West Bengal & Ors.

With

WPA (P) 145 of 2021

Pradipta Arjun

Vs.

Union of India & Ors.

With

WPA(P) 146 of 2021

Aparajita Mitra

Vs.

Union of India & Ors.

With

WPA(P) 147 of 2021

Kuntal Mojumder

Vs.

Union of India & Ors.

With

WPA(P) 148 of 2021

With

CAN 1 of 2021

Susheel Kumar Pandey

Vs.

State of West Bengal & Ors.

With

WPA (P) 149 of 2021

With

CAN 2 of 2021

Marufa Bibi & Ors.

Vs.

State of West Bengal & Ors.

With

WPA (P) 167 of 2021

Kashinath Biswas

Vs.

Union of India & Ors.

(Through Video Conference)

Present:

Mr. Harish Salve, Senior Advocate with
Mr. Sidhartha Sharma,
Ms. Rashmi Sanghee
Ms. Priyanka Tibrewal
Advocates (Through VC)
..Petitioner (in person) in
WPA(P) 144 of 2021.

Saloni Bhattacharya (Through VC)
..for the Petitioner in
WPA(P) 142 of 2021.

Mr. Bikash Ranjan Bhattacharya,
Senior Advocate
(Through VC)
..for the Petitioner in
WPA(P) 143 of 2021.

Mr. Mahesh Jetmalani, Senior Advocate with
M/s. Dhiraj Trivedi, Billadal Bhattacharya,
Sailendra Mishra, Ravi Sharma,
Debu Choudhury, Soumendra Mukherjee
Pradyut Saha, Advocates (Present in Court)
..for the Petitioner in
WPA(P) 145 of 2021.

Mr. Sukanta Ghosh, Advocate (Through VC)
..for the Petitioner in
WPA(P) 146 of 2021.

Mr. J. Sai Deepak with
Mr. Rishav Kumar Singh, Advocates (Through VC)
...for the Petitioner in
WPA(P) 148 of 2021.

Mr. Bikash Ranjan Bhattacharya,
Senior Advocate with
Mr. Samim Ahammed and
Ms. Saloni Bhattacharya, Advocates
..for the Petitioner in
WPA(P) 149 of 2021.

Mr. Rabi Sankar Chattopadhyay,
Advocate Present in Court,
Mr. Uday Sankar Chattopadhyay,
Mr. S. S. Chatterjee,
Mr. Soumen Bannerjee and
Mr. Sayan Chattopadhyay,
Advocates (Through VC)
..for the Petitioner in
WPA(P) 167 of 2021.

Mr. Kishore Dutta, Advocate General with,
M/s Sayan Sinha and
Debasish Ghosh, Advocates (Through VC)
..for the State.

Mr. Y.J. Dastoor,

Additional Solicitor General with
Mr. Phiroze Edulji,
Mr. Bhaskar P. Banerjee,
Ms. Amrita Pandey and
Mr. Avijit Mazumdar, Advocates (Through VC)
..for the Union of India

M/s. Sidhant Kumar
Manyaa Chandok
Dipayan Chaudhury and
Suvrodal Choudhury, Advocates (Through VC)
..for the ECI.

Mr. Subir Sanyal
Ms. Sumouli Sanyal, Advocates (Through VC)
..for NHRC.

ORDER

1. Considering the seriousness of the incidents, which were pointed out in various petitions filed before this court after the assembly polls in the State of West Bengal in 2021, where large scale violence was alleged and finding that the action and response thereon of the State agencies was slow and luke warm, this court vide order dated June 18, 2021 requested the National Human Rights Commission to constitute a committee to examine all the cases and submit a report to this court. The committee was to have one representative from the State Human Rights Commission and Member Secretary of the State Legal Services Authority also a member. The committee was constituted by the NHRC.
2. When the matter was taken up for hearing on June 30, 2021, the committee constituted by the NHRC filed its interim report before this court in a sealed cover. The same was perused briefly, however, considering the fact that the report is voluminous, the matter was adjourned to enable us to have a look on the interim report in detail.

3. From a perusal of the report prima facie stand taken by the petitioners is established that there had been post poll violence and the state was found on a wrong foot, where throughout it was on a denial mode. In violence, number of persons were killed. Many suffered sexual violence and grievous injuries. Even minor girls were not spared. They have been brutally assaulted sexually. Properties of many of them were damaged and number of them were forced to leave their houses and even migrate to neighbouring states. Till date the state has not been able to create an atmosphere that could build confidence of the sufferers to return back to their homes or carry on their occupation. The complaints of most of them were not recorded by the police or cross cases were forced against them. In some cases of heinous crimes the complaints were registered only after this Court had taken cognizance of the matter. Investigation of the cases registered was in slip shod manner and hardly any arrests were made in such heinous crimes. Some of the cases have not been registered although prima facie they disclosed commission of cognizable offence. In most of the cases accused have been bailed out.
4. Surprising fact available from the report is that state authorities, had been claiming throughout, that there were no complaints received by them but when opportunity was given to the complainants to file complaints with the State Legal Services Authority or the NHRC, the authorities were flooded with complaints. People are afraid to even disclose their identity to apprehending threat to their life and property.

5. The committee has also recorded in the interim report that different authorities have failed to respond to the queries raised by it. It shows there is more to conceal than to reveal.
6. Many of the persons injured in the violence are facing problems in their treatment also, with no support from the State. Some are facing difficulty in getting their ration as their ration cards have been taken away the goons.
7. It has also been mentioned in the report that Atif Rasheed, a member of the Committee was obstructed from discharging his duty when he and his team members were attacked by certain goons on June 29, 2021 in Jadavpur area. No police protection was given to them even though prior notice was given to the District Magistrate and the local police.
8. In a cases pertaining to murder of Abhijit Sarkar, Vice President of Bhartiya Mazdoor Trade Union Council in district Kolkata, the dead body is lying in mortuary as the family is demanding second autopsy, which is not being acceded to by the police and the administration.
9. But from the report, we feel that following directions need to be issued for the present to enable the committee to discharge the job assigned to it :
 - a. The police is directed to register cases in all matters which have either been reported to it or have been placed before the NHRC or any other authority/Commission. Steps be taken to get the

statements of the victims recorded under section 164 CrPC immediately, as per law.

- b. The State shall make all arrangements for medical treatment of all who have been injured in the violence, post assembly elections.
- c. Supply of rations be ensured to the persons, even if they have lost their ration cards.
- d. The state is directed to place before the committee complete details of the cases in which the accused were arrested and have been enlarged on bail by the courts, so as to enable it to place the same before the court.
- e. Whatever information has been asked for by the committee from different authorities in the state, be supplied immediately. Any delay may call for adverse inference.
- f. Second autopsy of Abhijit Sarkar, Vice President of Bhartiya Mazdoor Trade Union Council in district Kolkata, whose body is lying in hospital be got done from a team of doctors to be constituted by the head of the Hospital at Command Hospital, Kolkata. For the purpose, the Chairperson of the Committee constituted by the National Human Rights Commission shall coordinate with the hospital concerned where the body of the deceased is lying and also the Head of the Command Hospital. The body shall be shifted to the Command Hospital for carrying

out the second autopsy. The report shall specifically mention about the condition of the body as to whether it was properly preserved in the hospital where it was.

- g. Let a notice be issued to Rashid Munir Khan, Deputy Commissioner of Police, South Suburban Division, Kolkata to show cause as to why proceedings for contempt be not initiated against him for violation of the order passed by this court on June 18, 2021.
 - h. All the central agencies and service providers of various services to assist the committee and provide the requisite information wherever required, to the extent permissible in law.
 - i. The Chief Secretary of the State is directed to ensure preservation of the correspondence of the Special Branch/ Intelligence Branch of the State Police. Logs of different control rooms should also be preserved. The entire material from May 02, 2021 till date be kept in a sealed cover duly signed by the members of the committee, immediately. Any lapse or delay in the matter will invite adverse inference.
10. The request made by the Committee for further time to carry out investigation is accepted. Early action in the matter is expected as the delay may result in destruction of evidence.
11. We may make it clear here that we are not making the interim report public as of now as the matter is still being investigated by the

Committee and only interim report has been filed. Before passing any final order, due opportunity shall be granted to all the concerned parties to place their cases before the court, in view of final report to be submitted by the Committee.

12. The copies of the interim report (five sets) have been kept in a sealed cover with the Registrar General of this Court.

13. A copy of this order be sent to the Director, Command Hospital, Kolkata by the Registrar General of this Court through email.

14. Adjourned to July 13, 2021.

[Rajesh Bindal, C.J.(A)]

[I.P. Mukerji, J.]

[Harish Tandon, J.]

[Soumen Sen, J.]

[Subrata Talukdar, J.]

Kolkata

July 02, 2021

P.A. SG/SS