

23.04.2021
Item Nos.1
to wt 7

(sh/AD)

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(Through Video Conference)

WPA (P) 117 of 2021
Nitish Debnath

Vs.

Election Commission of India & Ors.

With

WPA (P) 129 of 2021
Arindam Ghosh

Vs.

Election Commission of India & Ors.

With

WPA (P) 107 of 2021
Somnath Roy & Ors.

Vs.

The State of West Bengal & Ors.

with

WPA (P) 118 of 2021
Sankar Halder & Ors.

Vs.

Union of India & Ors.

With

WPA (P) 123 of 2021
Bimal Kumar Chatterjee

Vs.

Election Commission of India & Ors.

With

WPA (P) 122 of 2021
With

IA No.: CAN 1 of 2021
Smt. Dipika Sarkar

Vs.

Union of India & Ors.

With

WPA(P) 127 of 2021
Durga Pada Mallick

Vs.

The Election Commission of India & Ors.

Mr. Srijib Chakraborty, Adv.

Mr. Arindam Das, Adv.

... for the petitioner in WPA(P) 117 of 2021.

Mr. Mani Sankar Chattopadhyay, Adv,

... for the petitioners in WPA (P) 118 of 2021.

Mr. Shamik Bagchi, Adv.

Mr. Noor Islam Seikh, Adv,

... for the petitioners in WPA (P) 107 of 2021.

Mr. Santi Ranjan Das, Adv.

Mr. Mrinal Kanti Biswas, Adv.

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Mr. Sayantan Rakshit, Adv.

... for the petitioner in WPA (P) 122 of 2021.

Mr. Rakesh Dwivedi, Sr. Adv.

Mr. Amit Sharma, Adv.

Mr. Prateek Kumar, Adv.

Mr. Eklavya Dwivedi, Adv.

Mr. Dipayan Choudhury, Adv.

Mr. Suvaradal Choudhury, Adv.

Mrs. Priyanka Chowdhury, Adv.

*... for the Election Commission of India
& Chief Electoral Officer.*

Mr. Y.J. Dastoor, Ld. ASG

Mr. Phiroze Edulji, Adv.

Ms. Amrita Pandey, Adv.

... for the Union of India

Mr. Kishore Dutta, Ld. AG

Mr. Abhratosh Majumdar, Ld. AAG

Mr. Sayan Sinha, Adv.

... for the State.

Ms. Sonal Sinha, Adv.

... for the State Election Commission.

1. Affidavit filed on behalf of the Election Commission of India and the Chief Electoral Officer, be kept with the records.
2. Learned Counsel for the petitioner, Mr. Chakraborty submits that compulsory masking of public at large should be insisted upon through proper machinery.
3. Article 324 (6) of the Constitution of India provides ample constitutional authority for the Election Commission of India to require availability of such officers from different zones and for different purposes as may be required in matters in connection with elections. Such requests have to be answered by the President or the Governor, as the case may be. This

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obviously indicates that though the President and the Governor are to act on the aid and advices of the Council of Ministers, such aid and advices of the Council of Ministers, either in the Union or in the State, cannot override the plenary power of the Election Commission of India to go ahead. It requires appropriately moulding and modulating the electoral process and doing everything that is required for the smooth conduct of the election.

4. We are sure that the Election Commission of India is steering its way forward in the proper direction and the action taken so far, as reported in the latest affidavit, which we have taken on record today, shows that the Election Commission will further push forward requisite action to obtain obedience to its direction. Any restrictive governance imposed by the Election Commission of India as regards public behaviour as regards the protective protocol in relation to Covid management shall be strictly followed and abided by the people. It will be within the jurisdiction of the competent authorities to enforce that masking, social distancing, etc. as required by the Covid protocol, are strictly adhered to and enforced in the State of West Bengal.
5. There is no way for any department or

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institution of governance to excuse itself from obeying the commands of the Election Commission of India and not complying and cooperating with the Election Commission of India's directions. This shall be taken as part of the mandatory command of this Court in support of what the Election Commission is carrying forward.

6. List these matters once again on 26.04.2021 at the top.

(Thottathil B. Radhakrishnan, CJ.)

(Arijit Banerjee, J.)