

29-01-2021
Item no.2 & 3
Subrata

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA(P) No.28 of 2020
Communist Party of India (Marxist), Howrah District
Committee

-vs-

West Bengal State Election Commission & Ors.
with

WPA(P) No.20 of 2021
Mousumi Roy

-vs-

West Bengal State Election Commission & Ors.

Mr. Bikash Ranjan Bhattacharya, sr. adv.
Mr. Sabyasachi Chatterjee, adv.
Mr. Imtiaz Ahmed, adv.
Ms. Dona Ghosh, adv.
Ms. Sayanti Sengupta, adv.
Mr. Susovan Dey, adv. ...for the petitioner

Mr. Abhratosh Majumder, Additional Advocate-General
Md. T.M. Siddiqui, sr. Govt. Pleader
Mr. Sayan Sinha, adv. ...for the State

Mr. Y.J. Dastoor, Addl. Solicitor-General
Mr. Phiroze Edulji, adv.
Mr. S.K. Bhattacharya, adv. ...for the Union of India

Ms. Sonal Sinha, adv....for State Election Commission

Mr. Sandipan Banerjee, adv.
Mr. A. Sureka, adv....for Howrah Municipal Corporation

There are two public interest writ applications. The first one is preferred by the Communist Party of India (Marxist), Howrah District Committee asking for speedy elections for the Howrah Municipal Corporation. The other is by one Mousumi Roy in the capacity of a citizen of this country. She describes herself as a social activist. In this application a similar prayer is made for elections to be convened and held in 106 municipalities and 6 municipal corporations in the State.

We observe that this issue pertaining to Kolkata

Municipal Corporation is pending adjudication before the Supreme Court of India and hence is not under our consideration.

From the submission made by learned counsel for the West Bengal State Election Commission, it appears that under section 8 of the West Bengal State Election Commission Act, 1994 read with section 36 of the West Bengal Municipal Elections Act, 1994, the State government, in consultation with the State Election Commission, decides the date and the manner of holding elections for the municipal bodies in the State.

We are also told by learned counsel that at the present point of time the State Election Commission is undertaking the task of delineating constituencies and preparation of electoral rolls for the purpose of the contemplated municipal elections. The electoral rolls can only be finalised after the State Election Commission finalises the electoral roll for the West Bengal Legislative Assembly elections to be held in 2021. When this task is over, the date or dates for holding the civic body elections would be decided.

Learned Additional Advocate-General submits that the municipal and the State Legislative Assembly elections cannot be held at the same time, because the entire administrative machinery of the State would be engaged in tackling the Assembly elections, and that there would be an administrative problem in holding two elections simultaneously.

Mr Bhattacharya, learned senior advocate appearing for the petitioners in both the cases, submits that the term of the councillors of the municipal bodies has long expired, and that there is urgent need to hold the civic elections. He submits that the administrative machinery required for conducting the municipal elections is many times smaller than what is required to conduct the Assembly elections.

We have considered the submissions of learned counsel for the parties.

Based on the submission of learned advocate for the West Bengal State Election Commission, we think that the Commission is in the process of taking steps for convening and holding the municipal elections. This is so, because, according to her, the work of delineation of constituencies and preparation of the electoral rolls is in progress. We also accept the submission that the electoral roll for the municipal elections can only be finalised, after the electoral roll for the Assembly elections in 2021 is finalised. We have every reason to believe that this electoral roll for the Assembly elections will be finalised shortly.

As far the date or dates for holding the municipal elections are concerned, the decision is to be taken by the State Election Commission and the State government in consultation with each other, fairly and judiciously taking all logistic factors into consideration, so that a peaceful and an uninterrupted electoral process for the municipal bodies is undertaken. It is to be borne in mind that the term of the councillors of the municipal bodies in question has long expired, and that all steps should be taken to convene and hold the municipal election as early as it is feasible.

Nothing remains to be decided in these applications. The writ applications are disposed of.

Liberty to apply by way of a fresh application in case the cause of action for it arises.

Since the affidavits were not invited, the allegations contained in the petitions are deemed not to be admitted.

[I.P. Mukerji, J]

[Md. Nizamuddin, J]

