



IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) PIL No.13478 of 2024

Sujit Kumar Mallick

..... *Petitioner*

Mr. D.K. Ray, Advocate

-versus-

1. State Of Odisha

2. Collector -cum-

District Magistrate,

Jajpur

3. Sub-Collector, Jajpur

..... *Opp. Parties*

Mr. A.K. Nanda,

Addl. Govt. Advocate

W.P.(C) No.13575 of 2024

Himansu Sekhar Sahoo

..... *Petitioner*

Mr. P.S. Nayak, Advocate

-versus-

1. The Chief Electoral

Officer, Odisha

2. The District Election

Officer -cum- District

Magistrate, Jajpur

..... *Opp. Parties*

Mr. A.K. Nanda,

Addl. Govt. Advocate

CORAM:

THE HON'BLE MR. JUSTICE S.K.SAHOO

THE HON'BLE MR. JUSTICE SANJAY KUMAR MISHRA



ORDER
30.05.2024

Order No.

01. Both these matters are taken up through Hybrid arrangement (video conferencing/physical mode).

Since the reliefs sought for in both the writ petitions are identical, both these matters are heard analogously and disposed of by this common order.

The writ petition W.P.(C) PIL No.13478 of 2024 has been filed by the petitioner Sujit Kumar Mallick with a prayer for direction to the O.P. No.2, the Collector, Jajpur for deputation of paramilitary police force in sensitive booths which has been mentioned in the representation of the petitioner vide Annexure-3, under Binjharpur Constituency.

The writ petition W.P.(C) No.13575 of 2024 has been filed by the petitioner Himansu Sekhar Sahoo, who is stated to be an independent candidate contesting election, with a prayer for a direction to the opp. parties to provide adequate Central Armed Police Force and CCTV surveillance at booth no.97- Saroi Primary School and 74- Ramachandi Nodal U.P. School under 51-Dharmasala Assembly Constituency for a free and fair election.

General Election to Legislative Assembly of Odisha in 2024 was supposed to be held in four phases and three phases are already over and 4th phase of election



is to be held in 42 Assembly constituencies along with six Lok Sabha Constituencies on 01.06.2024 in 12 police districts as per the print and electronic media reports. Security personnel including the Central Armed Police Force (CAPF) and Odisha Armed Police and Civil Police Personnel have been deployed and under massive security arrangements, the election has been conducted so far smoothly and in a peaceful manner. Though some of the polling booths of some Assembly as well as Lok Sabha constituencies have been identified as sensitive booths, but it is reported that adequate precautions, including security arrangement, are being done for conduct of peaceful election in those booths. Web-casting arrangement has also been done and micro-observers have also been deployed in identified booths for ensuring free, fair and transparent election.

Purity of election is fundamental to democracy, which has been time and again reiterated by the Hon'ble Supreme Court. In the case of **People's Union for Civil Liberties -Vrs.- Union of India reported in (2013) 10 Supreme Court Cases 1**, it was held that free and fair election is a basic structure of the Constitution and necessarily includes within its ambit the right of an elector to cast his vote without fear of reprisal, duress or coercion. More recently, a Constitution Bench of the Hon'ble Apex Court in the



case of **Anoop Baranwal v. Union of India reported in (2023) 6 Supreme Court Cases 161** underlined that democracy works when the citizens are given a chance to decide the fate of the ruling government by casting their vote in periodical elections. The faith of the citizens in the democratic processes is ensured by conducting free and fair elections through an independent and neutral agency.

The Constitutional Courts of this nation work as the *sentinel on the qui vive* and are vested with enormous power to step in whenever there is a threat to the fundamental rights of the citizens or when the damocles sword hangs over the basic tenets of the Constitution. Needless to say, the jurisdiction of the High Court under 226 of the Constitution of India can be invoked where the State Election Commission fails to discharge its constitutional obligation to hold free and fair election.

Having said that, the Court cannot exercise its jurisdiction in vacuum and there must be some reasonable apprehension of threat which must be brought on record so as to convince this Court to invoke its extraordinary jurisdiction. In the absence of any cogent material on record to grant the reliefs sought for in both the writ petitions, it would not be proper on our part to tread on the toes of electoral authorities,



especially when they are heavily occupied in ensuring free and fair elections in the State. In the present case, no material has been brought on record by the petitioners that the State Election Commission, Odisha has failed to discharge its constitutional obligation in any respect and therefore, we are not inclined to pass any orders in both these writ petitions.

Accordingly, both these writ petitions stand disposed of.

(S.K. Sahoo)
Vacation Judge

(S. K. Mishra)
Vacation Judge