

March 1, 2022
Sl. No.03
Court No.1
s.biswas

WPA (P) 91 of 2022

Soumendu Adhikari

vs.

The State of West Bengal and others

(Through Video Conference)

Mr. Paramjit Singh Patwalia, Senior Advocate
Mr. Rajdeep Majumdar,
Mr. Srijib Chakraborty,
Ms. Harshika Varma,
Mr. Sayak Chakraborti,
Mr. Mayukh Mukherjee,
Mr. Anish Kumar Mukherjee,
Mr. Suryaneel Das,
Mr. Kaushal Agarwal,
Mr. Amrit Sinha,
Mr. Surajit Saha, Advocates

..for the Petitioner

Mr. Y. J. Dastoor, Id. ASG
Mr. Vipul Kundalia, Advocate

... for the Union of India

Mr. S. N. Mookherjee, Id. Advocate General
Mr. Anirban Ray, Id. Govt. Pleader
Mr. Samrat Sen, Senior Advocate
Mr. Md. T.M. Siddiqui,
Mr. Raja Saha,
Mr. Nilotpal Chatterjee, Advocates

..for the State

Mr. Jayanta Mitra, Senior Advocate
Mr. Jishnu Saha, Senior Advocate
Ms. Sonal Sinha,
Mr. Shubhankar Nag, Advocates

..for the West Bengal State
Election Commission

Mr. Koushik Chatterjee,
Mr. Nilanjan Adhikari,
Ms. Tarunika Pal, Advocate

... for the respondent No.7

Mr. Anirban Mitra, Advocate

... for the respondent No.8

In this petition grievance has been raised highlighting various incidents which took place during the polling for the Contai Municipality held on 27.02.2022 and a prayer has been made for fresh polls to

the Contai Municipality by deployment of Central paramilitary forces.

Submission of Mr. Patwalia, learned Senior Advocate appearing for the petitioner, is that though as per the direction of this Court 97 CCTV cameras were installed but as per the information received, about 91 CCTV cameras were destroyed or made non-functional. He submits that an audit of the CCTV footage should be done by some independent agency to ascertain the incidents which took place on the date of polling. He has also referred to various complaints filed along with the petition and has submitted that violence and booth capturing had taken place on the date of polling and even the candidates were beaten.

Mr. Mitra, learned Senior Advocate appearing for the State Election Commission has also submitted that an enquiry from the observers appointed by the Election Commission will be made to ascertain truthfulness of the allegations made in the complaints.

Learned counsel for the Election Commission and learned Advocate General are permitted to file their report in the form of affidavit/affidavit-in-opposition by 7th March, 2022, thereafter it will be open to the petitioner to file the exception to the report/affidavit-in-reply.

At this stage a prayer has been made by learned counsel for the petitioner for staying the counting for Contai Municipality which is to take place tomorrow.

Considering the fact that the allegations made in the petition are yet to be replied by the State Election Commission and having regard to Constitutional bar and the circumstances of the case, we are of the opinion that the prayer made by learned senior advocate for the petitioner for staying the counting cannot be granted at this stage.

However, there is a consensus between learned counsel for the parties that since this petition is pending, therefore any action taken in the meanwhile will be subject to final outcome of the petition.

Needless to say that in terms of the earlier order of this Court, the Election Commission will take all adequate steps to preserve CCTV cameras as well as CCTV footage.

We also make it clear that all the points are left open.

A prayer has been made for forensic audit by the Election Commission of India, therefore learned counsel for the petitioner is permitted to serve a copy of this petition to the Commissioner, Election Commission of India before the next date of hearing.

List on 11.03.2022.

[Prakash Shrivastava, C.J.]

[Rajarshi Bharadwaj, J.]