

ITEM NO.9

COURT NO.4

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

CONMT.PET.(C) No. 884/2021 in W.P.(Cr1.) No. 455/2021

ALL INDIA TRINAMOOL CONGRESS & ANR.

Petitioner(s)

VERSUS

MANIK DAS & ORS.

Respondent(s)

(FOR ADMISSION and IA No.150596/2021-APPROPRIATE ORDERS/DIRECTIONS)

Date : 23-11-2021 This petition was called on for hearing today.

CORAM : HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Jaideep Gupta, Sr. Adv.
Mr. Gopal Sankaranarayanan, Sr. Adv.
Mr. Amar Dave, Adv.
Mr. Apoorv Khator, Adv.
Mr. Rajat Sehgal, AOR
Mr. Vikas Mehta, Adv.

For Respondent(s) Mr. Mahesh Jethmalani, Sr. Adv.
Mr. Shuvodeep Roy, AOR
Mr. Ravi Sharma, Adv.
Mr. Ishaan Borthakur, Adv.
Ms. Kanika Singhal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

- 1 When the Contempt Petition was listed during the course of the morning session for hearing, Mr Jaideep Gupta and Mr Gopal Sankaranarayanan, Senior Counsel appearing on behalf of the petitioners, made a fervent plea that the Court should exercise its jurisdiction to postpone the municipal elections which are to take place in Tripura on 25 November 2021. Senior Counsel urged that there is a precedent consisting of an order of a two-Judge Bench of this Court dated 28 June 2013 in **West Bengal State Election Commission v State of West Bengal & Others** [SLP(C) Nos 19928-19931 of 2013].
- 2 In the precedent noted above, the Court rescheduled the elections since it was

not possible to redeploy forces by 2 July 2013 and directed that the elections be held in five phases from 11 to 25 July 2013. In that case, the Special Leave Petition was filed by the West Bengal State Election Commission on the apprehension that the High Court at Calcutta may not be able to take a decision in time with regard to the deployment of forces by the State of West Bengal and by the Union of India for the panchayat elections in the State of West Bengal scheduled from 2 July 2013.

- 3 In the present case, the election process has begun. Campaigning is to end at 1600 hours today and the voting is to take place on 25 November 2021. The counting of ballots is scheduled to take place on 28 November 2021. Postponing elections is a matter of last and, even extreme recourse. Judicial interdiction of the electoral process has grave implications for a democratic polity. Article 243 O, Article 243ZG and Article 329 underscore a constitutional principle, which emphasizes the sanctity of the electoral process.
- 4 Moreover, instead of postponing the elections, the apprehension which has been expressed on behalf of the petitioners by Senior Counsel, can be redressed by issuing peremptory directions to the State of Tripura to ensure that (i) the remaining phases of the municipal elections take place in a peaceful and orderly manner; and that (ii) reports of the breaches of law and order which have been drawn to the attention of the law enforcing agencies are duly dealt with in accordance with law.
- 5 With a view to enable the Court to be apprised of the precise status of deployment of para-military forces to facilitate the orderly conduct of the elections, we requested Mr Mahesh Jethmalani, Senior Counsel appearing on behalf of the State of Tripura to take instructions and to submit a signed statement. Accordingly, a statement by Mr Arindam Nath, Inspector General of

Police (Law and Order) Tripura and Mr V S Yadav, Director General of Police, Tripura, has been placed on the record during the course of the hearing. The statement is extracted below:

Salient points of Police Arrangements in c/w Agartala Municipal Corporation/Municipalities/Nagar Panchayet Elections- 2021:-

Presently 3 battalions of CRPF comprising 18 Companies (9 sections per company) are deployed in the State for field duty in 18 locations including one company for protection of Hon'ble Governor and the rest are used for counter insurgency (CI), Law & Order and Road Opening Party (ROP) duty. Before the commencement of Election process Ministry of Home Affairs (MHA) was moved for making available 03 additional training companies of CRPF for election duty. Since the training companies have been sent to J&K, the MHA instructed CRPF, Agartala to provide 03 companies by thinning out from existing deployment without much affecting the entrusted duties of CRPF in their Area of responsibilities of respective camps. So far out of 17 companies total 78 sections have been drafted for election duty and 12 more sections will be drafted for election duty at Agartala. This comprises about 02 battalion strength of CRPF. Ballot papers are printed in Government Press at Agartala and Electronic Voting Machines (EVMs) are kept in Strong Rooms (for each Returning officers at total 13 locations). As per the instructions of the State Election Commission these 14 locations are guarded by CRPF headed by a Gazetted Officer from the Final date of withdrawal of nomination papers (08/11/2021).

In fine, the following is the gist of deployment:

Category of force	Strong room / Govt. Press duty	LO duty/ Area protection	Escort Duty/Protection	Booth duty	Total
CRPF (Sections)	28	50	00	00	78
Tripura State Rifles (persons)	00	1061	128	1480	2669
Tripura Police (persons)	28	694	40	1096	1858
Gazetted Officers	16	20	00	00	36
Total	78 Sections CRPF, 2669 TSR personnel, 1858 Police personnel and 36 Gazetted Officers have been mobilized for Election duty				

I. Further measures :

- i) The Deployment for booth shall be made from the morning of 24/11/2021 and polling parties are expected to return by evening of 25/11/2021.
- ii) All the 13 Strong Rooms are covered with CRPF security headed by a Gazetted Officer.
- iii) In addition to the committed deployment mentioned in the chart in 20 Police Station jurisdictions where elections are being held special checking, raids are also being organised with the District police resources.
- iv) So far 244 numbers of vulnerable hamlets have been identified in the State and round the clock fixed picket/vehicular mobile/foot patrolling as per ground requirements are maintained in the vulnerable hamlets.
- v) During Special drives conducted a total of 161 pending warrants have been executed after declaration of Municipal Election.
- vi) So far 88 trouble mongers have been identified and appropriate legal action has been taken against them.
- vii) Preventive actions have been intensified. 63 persons so far have been bound down under preventive sections of law after declaration of election.
- viii) Quick Reaction Teams (QRT) has been formed in all districts to meet any emergent situation.
- ix) In addition 12 vehicle borne Emergency Response Service System (ERSS) of Agartala town shall be placed into service during election.
- x) After declaration of elections 433 preventive arrests have been made in State.
- xi) 123 Naka Points in the district boundaries have been made functional round the clock for surveillance from 22/10/2021.
- xii) 20 Gazetted officers of Tripura Police have been drafted for supervision of police arrangements from the morning of 24/11/2021 till the completion of Voting on 25/11/2021.
- xiii) Separate three tier arrangements for counting halls with inner cordon by CRPF will be prepared and enforced.
- xiv) So far 53 political cases have been registered after declaration of Municipal Election. Appropriate legal action has been taken against the accused persons on the strength of evidences in each and every case.

6 Attached to the statement is a tabular chart containing a summary of force deployment during the ensuing elections to the municipal bodies. The statement reads, thus:

"SUMMARY OF FORCE DEPLOYMENT IN C/W ENSUING MUNICIPALITIES/ NAGAR PANCHAYET ELECTION-2021												Total Requirement					
Sl. NO	Head	North	Unakoti	Dhalai	Khowai	West	Jalpaiguri	Gomati	South	Total	Scale of Force	CRPF Sec	TSR	Tripura Police			Home Guard
														GO	NGO	ORS	
1	Strong Room	02	02	01	02	02	01	01	02	13	@ 2 sec CRPF + 1 Gazetted Officer	26	00	13	00	00	00
2	Government Press Plain cloth	00	00	00	00	01	00	00	00	1	@ 2 sec CRPF+ 1 Gazetted Officer (plain cloth) 30 Tripura Police (2 Gazetted Officer +8 Non Gazetted Officer + 20 Other Ranks)	02	00	03	08	20	00
3	A Category	44	32	12	32	197	23	08	22	370	@ 4 Tripura State Rifles	00	1480	00	00	00	00
4	B Category	13	03	03	00	243	02	05	05	274	@ 4 Tripura Police	00	00	00	00	1096	00
5	Returning Officers Office Guard	02	02	02	02	04	02	01	03	18	@ 1+4 Tripura Police	00	00	00	00	90	00
6	Returning Officers Personal Security Officer	02	02	02	02	04	02	01	03	18	@ 2 Personal Security Officer	00	00	00	00	36	00
7	Observer Personal Security Officer	02	02	02	02	04	03	01	03	19	@ 1 Personal Security Officer	00	00	00	00	19	00
8	Observer Escort	02	02	02	02	06	03	02	03	22	1 Escort (1+3) Tripura State Rifles	00	88	00	00	00	00
9	Police Station Reserve	02	02	01	02	08	02	01	02	20	@ 25 TSR for 20 PSs	00	500	00	00	00	00
10	District Reserve	01	01	01	01	01	01	01	01	8	@ 30 TSR for 6 Distt. & 20 TSR for 02 Distt.	00	220	00	00	00	00
11	No. of Police Station Mobile	06	06	03	06	22	06	03	09	61	@1 NGO+ 3 Tripura Police	00	00	00	61	183	00
12	Area Domination by CRPF	02	02	01	02	03	01	01	02	14	@1 sec CRPF	14	00	00	14	00	00
13	For Law & Order duty by CRPF	01	01	01	02	04	01	01	01	12	@3 sec CRPF	36	00	00	00	00	00
14	Escort for Political Party under Superintendent of police, Security Civil Sector	00	00	00	00	00	00	00	00	0	5 (two vehicle borne escorts (2+6) Tripura State Rifles	00	40	00	00	00	00
15		10	06	04	08	55	06	03	05	97	@ 2 Tripura Police	00	00	00	00	194	00
16	Police Sector	10	06	04	08	55	06	03	05	97	@ 1 NGO + 3 Tripura State Rifles	00	291	00	97	00	00
17	Police Headquarters Reserve	00	00	00	00	00	00	00	00	0		00	50	00	00	00	00
18	Candidate security / Protection	04	06	00	00	10	00	00	00	20	@ 2 constable	00	00	00	00	40	00
Total												78	2669	16	180	1678	0

Note: CRPF deployment will continue up to 04.12.2021 and Additional TSR deployment upto 30.11.2021. For Agartala Municipal Corporation Election efforts is on for thinning out 12 more sections of CRPF. "

- 7 Mr Jaideep Gupta submits that the statement would indicate that a requisition was submitted to the Union Ministry of Home Affairs for making available three additional training companies of the CRPF for election duty. However, having regard to the deployment in Jammu and Kashmir, the Ministry of Home Affairs instructed the CRPF Agartala to provide three companies "by thinning out from existing deployment" without affecting the duties entrusted to the CRPF in their area of responsibility. The position, as it stands at present, is that three battalions of the CRPF comprising of eighteen companies (nine sections per company) are deployed in the State for field duty. Seventeen companies involving a total of seventy eight sections have been drafted for election duty. Twelve more sections are to be drafted for election duty at Agartala. Hence, out of the three battalion strength of the CRPF in the state, a two battalion strength is being deployed for the purpose of the elections.

8 In the above backdrop, we order and direct as follows:

- (i) The Director General of Police and the Inspector General of Police (Law and Order) Tripura shall hold a joint meeting with the State Election Commission no later than by tomorrow (24 November 2021) morning for the purpose of assessing the requirement of a sufficient strength of para-military forces drawn from the CRPF for ensuring the peaceful conduct of the remaining phases of the elections;
- (ii) After making an assessment of the situation on the ground, if so required, a requisition shall be submitted to the CRPF or, as the case may be, to the Union Ministry of Home Affairs. Any such request shall be duly considered having regard to the situation and in the interest of ensuring peace, security and the orderly conduct of elections in the State of Tripura on 25 November 2021;
- (iii) The Director General of Police and the Inspector General of Police (Law and Order) Tripura shall take all steps to ensure that the election process is conducted in a peaceful and orderly manner and without any disruption, particularly, on the date of polling which is to take place on 25 November 2021, leading up to the counting of ballots on 28 November 2021; and
- (iv) Since a serious grievance has been expressed on behalf of the petitioners that despite the lodging of FIRs, no action has been taken by the law enforcing agencies, the respondents shall submit before this Court a statement of (a) the complaints which have been lodged; (b) the FIRs which have been registered; (c) action which has been taken against those who have resorted to violence; and (d) arrests that have been made. The tabulated statement shall be submitted, together with the compliance affidavit, which has already been directed to be filed by this Court, by its

previous order dated 11 November 2021.

- 9 While we are not inclined to accede to the prayer for postponing the elections for the reasons indicated earlier, we are equally of the view that it is the duty of the Director General of Police, the Inspector General of Police (Law and Order) and the Home Secretary of the State of Tripura to assuage any misgivings about the fairness of the law enforcement machinery in supporting the electoral process. The law enforcement agencies must discharge their duties in an even handed and non-partisan manner to obviate the grievance which has been urged before this Court that candidates and supporters of the AITC are being unfairly targeted by contesting political groups.
- 10 When a compliance affidavit is filed before this Court, it shall contain a detailed elaboration of the steps which have been taken to (a) preserve law and order; (b) ensure security for political workers, voters and contesting candidates; (c) protect the electoral process leading up to the counting of votes and the declaration of the results; and (d) deal with criminal offenders in accordance with law.
- 11 The Director General of Police and Home secretary to the State of Tripura shall observe these directions scrupulously so as to obviate the need for the Court to adopt coercive steps in the event that a breach of its directions comes to light.
- 12 List the Contempt Petitions on 25 November 2021 along with Writ Petition (Criminal) No 455 of 2021.

(SANJAY KUMAR-I)
AR-CUM-PS

(SAROJ KUMARI GAUR)
COURT MASTER