Ct. No.1
Item Nos.D/L.7-13
Saikat
Mukherjee

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA(P)/5/2022
with
CAN/4/2022, CAN/5/2026 & CAN/6/2026

COMMUNIST PARTY OF INDIA(MARXIST) HOWRAH DIST COMMITTEE REP BY SHANKAR MAITRA]… **Petitioner**

Versus

W.B. STATE ELECTION COMMISSION AND OTHERS]… **Respondents**

With

WPA(P)/271/2021
with
CAN/4/2022, CAN/5/2026 & CAN/6/2026

MOUSUMI ROY]… **Petitioner**

Versus

W.B. STATE ELECTION COMMISSION AND OTHERS]… **Respondents**

With

WPA(P)/299/2021
with
CAN/2/2021

PRATAP BANERJEE]… **Petitioner**

Versus

STATE OF WEST BENGAL AND OTHERS]… **Respondents**

With

WPA(P)/356/2021

AMBOOJ SHARMA]… **Petitioner**

Versus

W.B. STATE ELECTION COMMISSION AND OTHERS]… **Respondents**

With

WPA(P)/357/2021

DEBOLINA SARKAR]… **Petitioner**

Versus

W.B. STATE ELECTION COMMISSION AND OTHERS]… **Respondents**

With

WPA(P)/361/2021
with
CAN/1/2022 & CAN/2/2022

FAIYAZ AHMAD KHAN]… **Petitioner**

Versus

W.B. STATE ELECTION COMMISSION AND OTHERS]… **Respondents**

With

WPA(P)/91/2022

SOUMENDU ADHIKARI]… **Petitioner**

Versus

STATE OF WEST BENGAL AND OTHERS]… **Respondents**

Appearance:

Mr. Sabyasachi Chatterjee with Mr. Badrul Karim and Mr. Pintu Karar, Advocates for the Petitioner [in WPA(P) 5 of 2022];

Mr. Amitabha Ghosh with Mr. Rajnil Mukherjee and Ms. Satabdi Dey, Advocates for the Petitioner [in WPA(P) 357 of 2021];

Mr. Rishabh Ahmad Khan... Advocates for the Petitioner [in WPA(P) 357 of 2021];

Mr. Vipul Kundalia, Sr. Adv. with Mr. Sushil Kumar Mishra and Mr. Anindya Kanan, Advocates for the Union of India;

Mr. Saptangshu Basu, Sr. Adv. with Ms. Sonal Sinha, Ms. Kazi Tania Parveen, Advocates for the State Election Commission;

Ms. Anamika Pandey with Mr. Anuran Samanta, Advocate for the Election Commission of India;

Mr. Sahasrangshu Bhattacharjee with Mr. Anup Dasgupta, Advocates for the State;

Mr. Ankit Sureka, Advocate for the Howrah Municipal Corporation;

CORAM : RAVINDRA V. GHUGE, CJ.
&
OM NARAYAN RAI, J.

DATE : 14th October, 2026.

***ORDER* (Per Court)**

In Re:- WPA(P) 271 of 2021, WPA(P) 299 of 2021 & WPA(P) 356 of 2021

1. The Learned Advocates representing the Petitioners in these three Petitions, submit that the issue is as regards the Municipal

Councils/Municipalities/Municipal Corporations Elections of 2021. Now that the stage is set for conducting fresh elections, these Petitioners are of the view that these matters are rendered infructuous and the same may be disposed off.

2. As such, **these Petitions are disposed off as being infructuous in view of the statement made. Pending Civil Applications connected thereto would not survive and stand disposed off**.

In Re:- WPA(P) 5 of 2022, WPA(P) 357 of 2021, WPA(P) 361 of 2021 & WPA(P) 91 of 2022

3. The Learned Advocates representing the Petitioners in these four Petitions, submit that these Petitioners desire to prosecute these Petitions on their own merits. The Communist Party of India (Marxist), Petitioner in WPA(P) 5 of 2022, submits that other prayers set out in the Petition may be considered. Therefore, the Petition may be kept pending. The Petitioners have nothing to do with the EVMs.

4. We have considered the affidavit dated 13.10.2026, which is filed on behalf of the State Election Commission, in the backdrop of the order dated 12.10.2026. We find that the State Election Commission has

reiterated that the data preserved inside the EVM cannot be downloaded or transferred to any portable hard-disc. Our attention is drawn to paragraph nos.4, 5, 6 and 7, which read as under:-

> *"4. That the data in the EVMs cannot be modified or overwritten while in storage due to multiple layers of security built in the EVMs. Besides, the EVMs are made in such a way that makes them non-hackable and tamper-proof. To ensure that the EVMs cannot be modified or overwritten or tampered or hacked, the EVMs are made with one-time programmable (OTP) chips; no connectivity feature; no data ports and proprietary, encrypted communication.*
>
> *5. These layered and specifically architectured system was built to ensure that the data within the EVMs are preserved in its entirety. The data is secured and tamper-proof when it is within the EVM. The moment the data is out of the Control Unit (CU) of EVM, it will be vulnerable and can be subjected to tampering.*
>
> *6. That, for the reasons mentioned herein fore, the data from the EVMs cannot be retrieved or extracted therefrom and stored in any external storage devise.*
>
> *7. That the information given herein above are based on the documents published by the Election Commission of India from time to time"*

5. In view of the above, all EVMs, save and except those which are in connection with the Wards that are subject-matter of WPA(P) 357 of 2021 (Debolina Sarkar), WPA(P) 361 of 2021 (Faiyaz Ahmad Khan) and WPA(P) 91 of 2022 (Soumendu Adhikari), shall be available to the State Election Commission for fresh use in the fresh elections likely to be held in

the near future. Needless to state, on the request of the State Election Commission and in view of the above-mentioned three Petitions being disposed off, the data preserved in such EVMs, may be erased by following the procedure and the policy in vogue.

6. List these above four matters, **WPA(P) 5 of 2022, WPA(P) 357 of 2021, WPA(P) 361 of 2021 & WPA(P) 91 of 2022**, for further hearing on **15th December, 2026**.

(Om Narayan Rai, J.) **(Ravindra V. Ghuge)**
Chief Justice