

THE HON'BLE SRI JUSTICE JOYMALYA BAGCHI  
AND  
THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

Writ Appeal No.131 of 2021  
[Taken up through video conferencing]

**JUDGMENT:** (Per Hon'ble Sri Justice Joymalya Bagchi)

Heard Sri B. Adinarayana Rao, learned senior counsel appearing for the Appellant-State Election Commission and the learned Advocate General for the respondent-State.

The Appeal is directed against order dated 03.03.2021 passed by the learned Single Judge in I.A.No.1 of 2021 in W.P.No.5098 of 2021, *inter alia*, suspending the operation of impugned proceedings/Direction No.1107/SEC/F1/2021, dated 28.02.2021, whereby and whereunder the Election Commission issued the following directions:

1. *Ward Volunteer shall not be entrusted with distribution of authenticated photo voter slips to the voters;*
2. *They shall be grounded and their movements be closely monitored;*
3. *Their phones shall be kept in safe custody as data base of the beneficiaries is likely to be leveraged unduly.*

Upon hearing the parties, we find that parties are ad idem with regard to Item-1, viz., Ward Volunteers shall not be entrusted with distribution of authenticated photo voter slips to the voters. With regard to Item-2, the learned Single Judge observed that the said condition must be read in the light of the observations that the Ward Volunteers may discharge normal and routine mandated responsibilities. Learned Senior Counsels appearing before us submit that the expression "grounded" in item-2 ought to be read to mean that the Volunteers would be permitted to carry on routine activities. Hence, we find no

reason to interfere with the order passed by the learned Single Judge in this respect.

Parties, however, have some differences with regard to the impact and import of direction No.3, which, *inter alia*, provides that the phones containing data relating to voters ought to be kept in safe custody to avoid undue influence upon them. While learned senior counsel, Mr. B. Adinarayana Rao, would seek to impress that the deposit of mobile phones in safe custody would significantly reduce the pernicious impact of the Ward Volunteers or voters, learned Advocate General submits that the direction is vague as it does not specify the identity of the person in whose custody the mobile phones would be kept and if so, how the volunteers would discharge their normal and routine duties in the absence of the convenient tool of communication between themselves and the endurers.

We have no doubt in our mind that the Election Commission is the final arbiter with regard to imposition of reasonable restrictions upon the functioning of public authorities including public servants in the course of election in order to ensure free, fair and impartial election. However, in rare cases when such direction is excessive or oppressive in nature or does not have a reasonable nexus with the objective it seeks to achieve courts may exercise limited judicial review. We have tested the direction No.3 from such angle and having done so, while we are of view in the light of a large number of complaints received by the Election Commission in the course of holding of Panchayat Elections as well as at Regional conference on 27.02.2021 with regard to the alleged misconduct of Ward Volunteers in indulging in canvassing on behalf of the political parties, a sterner supervision upon their activity is desired, direction No.2 cannot be permitted to operate in a manner that the Ward Volunteers would be completely deprived of access to their mobile phones since such prohibition would seriously impair the discharge of their

normal and routine activities. This aspect has been accepted by both parties and in a harmonious atmosphere of mutual agreement to ensure free, fair and impartial election process, the Election Commission on one hand as well as the State Government on the other hand agree that the order impugned may be modified to the extent that the Ward Volunteers shall handover their mobile phones containing data base relating to voters to a designated authority nominated by the respective Municipal Commissioner during the election process. The date, time and place at which such exercise shall be undertaken would be duly notified by the Municipal Commissioner concerned. Adequate notice shall be given to all the Ward Volunteers in that respect. The volunteers, however, shall be permitted to access and use the mobile phones under the supervision and control of the designated authorities only. We further observe that the directions so far as it contemplates summary discharge in respect of serious violation on the part of a ward volunteer must be construed in the light of the power and jurisdiction of the Commission to recommend necessary disciplinary action to the Appropriate Government and that too after observing due process of law.

The stay order granted by the learned Single Judge is modified to the aforesaid extent.

With these observations, the Writ Appeal is disposed of. There shall be no order as to costs.

As a sequel, Miscellaneous Petitions, if any, pending in this writ appeal shall stand closed.

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JOYMALYA BAGCHI, J

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U. DURGA PRASAD RAO, J

Date: 05.03.2021

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**Writ Appeal No.131 of 2021**  
[Judgment of the Division Bench delivered by  
Hon'ble Sri Justice Joymalya Bagchi]

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**DATED: 05-03-2021**