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16.04.2026
Court. No. 25
D.Hira/S. Gayen/
Sourav

WPA 8521 of 2026

South Point Education Society & Anr.
Vs.
State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya,
Mr. Ayan Chakraborty,
Mr. Pratik Majumdar,
Ms. Sohini Mukherjee,
Mr. Saikat Mallick.

... for the petitioners

Mr. Suman Ghosh, Sr. Adv.,
Mr. Monirujjaman.

... for the State

Mr. Nilotpal Chatterjee.

... for the respondent no. 9

Ms. Anamika Pandey.

... for the ECI

1. The petitioners have filed the present writ petition challenging 8 (eight) vehicles requisition issued by the Officer-in-Charge, Purba Jadavpur TP Guard, Kolkata and Regional Transport Officer, PVD Kolkata for requisitioning 8 (eight) school buses of the petitioners for election duty.
2. Learned counsel for the petitioners submits that the bus is being used by the school for the purpose of picking up and dropping of the school students of different age groups and if the bus has been given for the election duty, the school as well as about 926 students of the school of different

classes will be badly prejudiced to attend school on 28.04.2026.

3. He submits that the Officer-in-Charge, Purba Jadavpur, TP Guard, Kolkata and Regional Transport Officer, PVD Kolkata requisitioned the said bus on the school days and if the school authority will provide the said bus to the authorities for the purpose of election duty, the school is to be closed as there is no other alternative arrangement for picking up and dropping of about 926 students of the said school.
4. The petitioner has relied upon the circular dated 8th February, 2023 in Clause 3 of the said circular it is mentioned that the vehicles of UPSC and the vehicles of educational institutions which are specifically meant for carrying the students from their residence to educational institutions will be requisitioned for election duty only in unavoidable circumstances and as a last resort.
5. Mr. Bhattacharya, learned counsel for the petitioners relying upon the said circular and submits that the requisition on the basis of which the buses of the school does not reflect any unavoidable circumstances for which the authorities have requisitioned the bus of the school for the election purpose.
6. He submits that classes for the academic sessions 2026-2027 started from April 6, 2026 and in the

absence of school buses, it will be difficult for such students who avail said bus services to reach school in time. He submits that the morning sessions of the school for classes I to V start at 7.00 a.m. and students who are coming from remote distance for school totally rely on the bus services of the school.

7. Per contra, learned counsel for the State submits that Section 160 of the representation of the People Act, 1951 provides that for the purpose of election the Government can requisition any vehicle including the transport vehicle.
8. He submits that Section 2(47) of the Motor Vehicles Act defines transport vehicle and the school bus is duly covered under Section 2(47) of the Motor Vehicles Act and as such, taking into consideration of Section 160 of the representation of the People Act, 1951, the State authorities have requisitioned the bus of the school for the purpose of election duty.
9. Learned counsel for the State has also handed over a bunch of documents and submits that on 26th March, 2026 a notification is issued in pursuance of Section 160 of the Representation of the People Act, 1951 for requisition on behalf of the State in connection with the election in West Bengal and as such in terms of the said notification, the State has

taken a decision for requisition of the bus of the school for the purpose of election duty.

10. Learned counsel for the State has also submitted a report and submits that 105 CAPF companies and 18 TAC HQ companies are stationed under Kolkata Police jurisdiction. Each company comprises approximately about 90 personnel or may be even higher which varies from unit to unit. In addition to the foregoing each TAC comprises a minimum of 20 personnel which can go up to even 30 depending upon the unit.
11. He submits that as per the Election Commission of India norms, vehicles were provided to the aforesaid CAPF Coys but due to shortage of vehicles and as the required number of vehicles was not available with Kolkata Police, therefore, necessary requisitioning was done from outside.
12. Learned counsel for the State further submits that several election officers have also to be taken to the concerned polling station for performing their duties and for their transportation necessary vehicles are required. The authorities have taken a decision for requisition the bus of the school for bringing the said bus as per the direction of the authorities on a particular day/days for the purpose of the election duty.
13. Learned counsel for the State has relied upon the judgment in the case of ***District Magistrate and***

District Election Officer and Collector, Gwalior, M.P. vs. National Insurance Company Limited & Ors. reported in ***2026 INSC 279*** and submits that in the said case the school bus was hired for the purpose of election duty and during the election duty the bus was met with an accident. In the said case, the Hon'ble Supreme Court has not passed any order that the State authorities or the Election Commission of India cannot requisition for bus of any school authority.

14. Learned counsel for the State further relied upon the official correspondence between the Additional Chief Electoral Officer and the District Election Officer dated April 15, 2025 (it is to be read as April 15, 2026) and submits that a decision has been taken by the Government that a large number of buses/mini buses/small vehicles owned by many schools and education institutions throughout the West Bengal had been requisitioned for polling personnel movement during WBLAE-2026 in both phases. He submits that the authorities, by taking into consideration of Section 160 of the Representation of the People Act, 1951 as well as Section 2(47) of the Motor Vehicles Act, 1988, have taken the decision for requisition of the school buses for the purpose of election duty. He submits that the writ application filed by the petitioner is liable to be dismissed.

15. Learned counsel appearing for the District Election Officer submits that there is no necessity for giving any information to the school authority before they requisition the bus of the school authority in terms of the Rule 98 of the Conduct of Election Rules, 1961. He submits that only the order of requisition is to be sent to the school authority for requisition of the bus for the purpose of election duty. He further submits that Section 160 of Representation of the People Act, 1951 given the power to the Government for engagement of any type of vehicles for the purpose of election duty and by invoking the said, the Government has taken a decision for requisition of the school buses for the purpose of election duty.
16. Learned counsel for the District Election Commission further submits that the requisition has been given to the school authorities by considering the provisions of Section 160 as well as the Motor Vehicles Act and as such, the school authorities are bound to follow the requisition by providing their buses to the authority for the purpose of election duty.
17. Heard the learned counsel for the respective parties.
18. Perused the materials on record and the judgments relied upon by the State authority.

19. The petitioner has challenged the notices of requisition issued by the Officer-in-Charge, Purba Jadavpur, TP Guard, Kolkata Police as well as the Regional Transport Officer, Kolkata wherein it is directed to the school authority to report the TP Guard, Kolkata Police whenever they are called over phone. In the requisition of the Regional Transport Officer, Kolkata, it is mentioned that formal requisition order will be issued to the petitioner for the above purpose in due course. When the matter is taken up for hearing, the learned counsel for the State has produced documents wherein it is revealed that on April 9, 2026 an order was passed for requisition of the eight school buses of the petitioner school.

20. Learned counsel for the State has also relied upon a communication dated April 15, 2025 but it is to be read as April 15, 2026 and submits that the authorities have taken a decision for engagement of the vehicles of the school and educational institution.

21. This Court failed to appreciate that the authorities have relied upon an order dated April 9, 2026 and April 15, 2026 wherein the authorities have taken the decision for requisition of the school buses of the petitioner for the purpose of election duty but before passing the said order, the police authority as well as the Regional Transport Officer have

issued the requisition. The said Act itself shows that without any decision taken by the Election Officer or the competent authority, the police authority as well as the Regional Transport Authority has issued requisition letter without any authority.

22. The requisition is given by the police as well as the Regional Transport Officer on March 11, 2026 neither the State nor the District Election Commission has shown any document that before March 11, 2026 or on March 11, 2026 the State or the District Election Commission have taken any decision for requisition of the school buses of the petitioner. By an order dated April 9, 2026, this Court has directed the respondent authorities to produce the documents to establish that the office of the Election Commission or the office of the District Magistrate have directed to the police authority and the Regional Transport Authority for requisition of the busses of the petitioner for election duty.

23. Though the State authority as well as the District Election Officer has produced the document but the document which they have produced, it shows that the authorities have taken a decision for requisition of the buses of the school only on April 9, 2026 and April 15, 2026 but the police authority as well as the Regional Transport Officer has

issued the requisition on March 11, 2026 without any order from the competent authority.

24. Learned counsel for the District Election Commission has pointed out that the requisition issued by the Regional Transport Officer dated March 11, 2026 being Serial No. 1622 and pointed out that the Memo no. KOL(N) E1 1102/2025 dated December 30, 2025 but this Court by an order dated April 9, 2026 categorically directed the State to produce the document with regard to the decision taken by the authority for requisition of the busses of the petitioner but the authorities have not produced any document.

25. Though Section 160 of the Representation of the People Act, 1951 authorizes the Government to engage any vehicle for the purpose of election duty and Section 2(47) of the Motor Vehicles Act provides the definition of the transport vehicle but that does not mean that the authorities can take the action arbitrary without following the due process of law.

26. The petitioners have challenged the requisition of police authority and Regional Transport authority but neither the office of the Election Commission of India nor the office of the District Election Office have produced any document to show that prior to March 11, 2026 any decision is taken for requisition of the school busses. The documents

which the authorities are relying upon are of April 9, 2026 and 15.04.2026 i.e., after the requisition issued by the police and Regional Transport authority.

27. In Clause 3 of circular dated 08.02.2023, categorically provides that vehicles of UPSC and educational institutions which are specifically meant for carrying the students from their residence to educational institutions will be requisitioned for election duty only in unavoidable circumstances and as a last resort. In the case in hand, the authorities have requisitioned the school busses of the petitioners without showing any unavoidable circumstances. In the report submitted by the State it is mentioned that number of vehicles are not available with Kolkata Police but it is not the case of the respondent that no other transport vehicle available at Kolkata.

28. The judgment relied by the State respondent is not applicable in the present case as in the said case, the only question was for grant of compensation as the school bus met with an accident during election duty. There was no issue with regard to requisition of school busses in election duty.

29. Considering the above, the requisition issued by the police authority as well as the Regional Transport Officer is without any jurisdiction. Thus the requisitions are set aside and quashed.

30. **WPA 8521 of 2026** is disposed of.

31. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)