

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI-110001

No. 437/WB-LA/2021

Dated: 12th April, 2021

ORDER

1. Whereas, the Commission had issued a **Notice No. 437/WB-LA/2021 dated 7th April and another Notice No. 437/WB-LA/2021 dated 8th April, 2021** to Ms. Mamata Banerjee, Chairperson of All India Trinamool Congress (AITC) for violation of provisions of Model Code of Conduct as well as section 123(3) & (3A) of the Representation of the People Act, 1951 and sections 186, 189 and 505 of Indian Penal Code, 1860, during ongoing General Election to Legislative Assembly of West Bengal; and
2. Whereas, an authenticated transcript referred in notice dated 7th April 2021 is as under:

“.....Kanyashree, Kanyashree, there are scholarships upto the university. There is Shishashree for Scheduled Castes and Scheduled Tribes. For general category there is Swami Vivekananda Scholarship. There is Aikyashree for my brothers and sisters belonging to the minority community and I have given it to 2 crores and 35 lakh beneficiaries. ***I am requesting my minority brothers and sisters with folded hands don't divide the minority votes after listening to the devil (Shaitaan) person who had take money from the BJP. He passes many communal statements and initiate clashes between the Hindu and the Muslims. He is one of the apostles of the BIP, a comrade. The comrades of CPM and BIP is roaming around with the money given by BP to divide the minority votes. Please don't allow them to do so. Keep in mind that if the BJP comes into the government then you will be in severe danger. I also will tell my Hindu brothers and sister not to make division amongst yourselves as Hindu and Muslim after listening to the BIP. Look. I have told my brothers and sisters belonging to the minority community that there is one or two rogues, Mir Jafar among them which is there amongst us also. Is there not a lot of Mir Jafars amongst us? Is there not a lot Gaddars among us? Who are there in the BJP now...***”; and
3. Whereas, Ms. Mamata Banerjee, Chairperson of AITC and candidate from 210-Nandigram AC to the aforesaid Notice dated 7th April 2021 gave a reply on 9th April, 2021 and submitted that:

'I did not seek to influence the voters to cast their vote for her on religious-segmentary lines; rather I categorically spoke in favour of religious harmony in line with the spirit of Model Code of Conduct and the Constitution of India. By using words "I also will tell my Hindu brothers and sisters not to make division amongst yourselves as Hindu and Muslim...", it is evident that my speech was not to incite religious sentiments but to maintain peace and harmony. It was also a clear warning to those who are attempting to disturb such harmony. I was being syncretic rather than sectarian, inclusive rather than exclusive.'

4. Whereas, Ms. Banerjee has **selectively chosen parts of her speech in her reply** dated 9th April 2021 and did not mention anything on the context of key parts of her speech, which is reproduced below:

'I am requesting my minority brothers and sisters with folded hands don't divide the minority votes after listening to the devil (Shaitaan) person who had taken money from BJP. He passes many communal statements and initiate clashes between the Hindu and the Muslims...The comrades of CPM and BJP is roaming around with the money given by BJP to divide the minority votes. Please don't allow them to do so. Keep in mind that if the BJP comes into the government then you will be in severe danger.'

5. Whereas, an authenticated transcript of Ms Mamata Banerjee's speech telecast on CNN News Channel referred in notice dated 8th April 2021 is as under:

"Mamata Banerjee is not an outsider. Who are outsiders? The goons with guns whom you brought from elsewhere. Didn't they do it in Contai? The father, son and the uncles do not have the ability to win the elections in a fair manner, so they created ruckus in the night the day before yesterday at Contai."

"Who gave so much power to them that the central police are threatening the women without allowing them to cast their votes? I saw the same thing in 2019. I saw the same thing in 2016:

*"I know under whose instruction they beat up and how they beat up. It is your duty to save the family of the people. **If any of our mothers and sisters suffers a single stroke with the stick attack them with ladle, spuds and knife. I am telling you. It is the right of***

women. And if anyone of our mothers and sisters is denied entry in the voting compartment all of you come out and revolt."

Whereas, transcript of another speech made by Ms Mamata Banerjee at Cooch Behar on 7.4.2021 referred in the **notice dated 8th April 2021** is as under:

*"They will bring goons from Assam to create panic. I would ask the administration to strengthen NAKA checking and to seal the borders of Assam. I would ask the Election Commission to seal the Assam border. Bhutan is a peaceful country and our friendly neighbour. Still the border must be sealed. Remember that there are several other areas surrounding Cooch Behar which belong to Bangladesh. Those borders must be sealed too, so that no outsider can create ruckus here. **And if CAPF create disturbances, I tell you ladies, a group of you go and restrain (gherao) them while another group will go to cast their votes. Don't waste your vote. If you engage yourself only in restraining them they will be happy that you did not cast your vote. This is their plan. It is the plan of BJP. And your plan will be that you will not be scared if they try to intimidate you coming to your village on the one hand, on the other you just talk to them. Talking to them will be tantamount to restrain them. You don't have to gherao them literally.**"*

6. Whereas, in her **reply dated 10th April 2021**, Ms. Mamata Banerjee, Chairperson of AITC to the aforesaid Notice dated 8th April 2021, has submitted, inter alia, that:

"In my speech, I had only called upon the voters, specifically voters who are women, to protest (democratically by gherao) if and when somebody (including CAPF) created any obstruction in their right to vote. Gherao is one of the democratic ways of registering public protest and accepted and there is no reason why gherao should be considered as illegal. Be it noted that that the multi-dimensional word 'gherao' has been a legitimate entry in the in the political lexicon of West Bengal since late 1960s, and in recent years, more frequently than not, the word has been used to connote peaceful satyagraha against authorities by silent victims of a situation. I have only emphasised that voters should exercise their franchise in a free and fair manner and that intimidation of the electorate, by any external force whatsoever (including CAPF), will not be tolerated. I emphatically suggested that the gherao shall be by way of verbal engagement and not a literal gherao ("You don't have to gherao them literally"). The above clearly evidences that there has been no attempt to threaten, incite and/or influence the electorate against the CAPF and any allegation to the contrary is

unfounded and thus denied. My intentions have all along been to uphold the sanctity of democracy and the spirit of the Constitution of India.'

7. Whereas, Ms. Banerjee in her reply has yet again conveniently left out key parts of her speech, perhaps due to selective amnesia, which is highlighted below and in bold:

"Mamata Banerjee is not an outsider. Who are outsiders? The goons with guns whom you brought from elsewhere. Didn't they do it in Contai? The father, son and the uncles do not have the ability to win the elections in a fair manner, so they created ruckus in the night the day before yesterday at Contai."

"Who gave so much power to them that the central police are threatening the women without allowing them to cast their votes? I saw the same thing in 2019. I saw the same thing in 2016:

"I know under whose instruction they beat up and how they beat up. It is your duty to save the family of the people. If any of our mothers and sisters suffers a single stroke with the stick attack them with ladle, spuds and knife. I am telling you. It is the right of women. And if anyone of our mothers and sisters is denied entry in the voting compartment all of you come out and revolt."

"They will bring goons from Assam to create panic. I would ask the administration to strengthen NAKA checking and to seal the borders of Assam. I would ask the Election Commission to seal the Assam border. Bhutan is a peaceful country and our friendly neighbour. Still the border must be sealed, Remember that there are several other areas surrounding Cooch Behar, which belong to Bangladesh. Those borders must be sealed too, so that no outsider can create ruckus here."

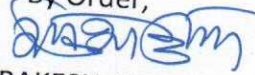
8. Whereas, Ms. Mamata Banerjee while submitting her reply has again leveled allegations against CAPF and cited certain issues raised during phase-wise election and has enclosed a list with the reply. A separate letter is being issued in this regard with information based on action taken report submitted by the Chief Electoral Officer, West Bengal; and
9. Whereas, on earlier occasion in response to your handwritten complaint dated 1.4.2021 vide D.O. No. 464/WB-LA/2021 dated 03.04.2021, Commission has observed that "in fact it is self-evident from the perusal of all the reports that the allegations mentioned in your hand-written note are factually incorrect, without any empirical evidence whatsoever and devoid of substance. In fact, it is a matter of deep regret that a media

narrative was sought to be weaved hour after hour to misguide the biggest stakeholder which is the voters by a candidate who also happens to be Hon'ble CM of the State. At least this should have been appreciated that the side show was fraught with immense potential to have adverse impact on law and order across West Bengal and may be some other States. And all this was being done when the election process was/is on. There could not have been a greater misdemeanor".

10. Whereas, the Commission has carefully considered the matter and is of the considered view that Ms. Mamata Banerjee, who also happens to be the Chief Minister of the State, has in violation of the provisions of Model Code of Conduct as well as Section 123(3) & (3A) of the Representation of the People Act, 1951 and Sections 186, 189 and 505 of Indian Penal Code, 1860 made highly insinuating and provocative remarks laden with serious potential of breakdown of law & order and thereby adversely affecting the election process.

Now, therefore, the Commission hereby condemns such statements portent with serious law & order problems across the State(s) and sternly warns Ms. Mamata Banerjee and advises her to desist from using such statements while making public utterances during the period when Model Code of Conduct is in force. The Commission also imposes a ban of twenty four hours on Ms Mamata Banerjee from campaigning in any manner from 8.00 pm of 12.4.2021 till 8.00 pm of 13.4.2021.

Ms. Mamata Banerjee,
Chairperson of AITC, West Bengal.

By Order,

(RAKESH KUMAR)
SECRETARY