

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWrit Petition(s) (Civil) No(s). 1089/2025

MOSTARI BANU

Petitioner(s)

VERSUS

THE ELECTION COMMISSION OF INDIA & ORS.

Respondent(s)

(IA No. 287398/2025 - GRANT OF INTERIM RELIEF)

WITH

W.P.(C) No. 126/2026 (PIL-W)

(IA No. 32266/2026 - EXEMPTION FROM FILING O.T.)

W.P.(C) No. 129/2026 (PIL-W)

W.P.(C) No. 737/2025 (PIL-W)

(IA No. 27103/2026 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 1908/2026 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 27104/2026 - EXEMPTION FROM FILING O.T., IA No. 303592/2025 - PERMISSION TO FILE APPLICATION FOR DIRECTION and IA No. 183939/2025 - STAY APPLICATION)

W.P.(C) No. 1074/2025 (PIL-W)

(IA No. 26838/2026 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 1884/2026 - APPROPRIATE ORDERS/DIRECTIONS, IA No. 26839/2026 - EXEMPTION FROM FILING O.T., IA No. 303210/2025 - STAY APPLICATION and IA No. 284001/2025 - STAY APPLICATION)

W.P.(C) No. 1088/2025 (PIL-W)

(IA No. 287351/2025 - STAY APPLICATION)

W.P.(C) No. 1216/2025 (PIL-W)

(IA No. 317082/2025 - CLARIFICATION/DIRECTION)

WITH

ITEM NO. 42

Writ Petition(s) (Civil) No(s). 159/2026

AND

ITEM NO. 48

Writ Petition(s) (Civil) No(s). 119/2026

Date : 09-02-2026 These matters were called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE JOYMALYA BAGCHI
HON'BLE MR. JUSTICE N.V. ANJARIA

For Petitioner(s): Mr. V. Giri, Sr. Adv.
Ms. Sanjana Saddy, AOR

Mr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Prashanto Chandra Sen, Sr. Adv.
Mr. Muhammad Ali Khan, Adv.
Mr. Amit Bhandari, Adv.
Mr. Omar Hoda, Adv.
Ms. Eesha Bakshi, Adv.
Mr. Uday Bhatia, Adv.
Mr. Kamran Khan, Adv.
Mr. Suray Kiran Singh, Adv.
Mr. Aviral Jain, Adv.
Ms. Aayesha Khan, Adv.
Mr. Sayantan Chanda, Adv.
Raj Laxmi Singh, Adv.
Mr. Usman Ghani Khan, AOR

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.
Mr. Sabyasachi Chatterjee, Adv.
Mr. Akashdeep Mukherjee, Adv.
Mr. Sayan Banerjee, Adv.
Mr. Badrul Karim, Adv.
Mr. Kiron Sk, Adv.
Mr. Rishabh Ahmad Khan, Adv.
Mr. Md Shah Minhajuddin, Adv.
Mr. Md Adil Khan, Adv.
Mr. Subhro Prokas Mukherjee, AOR

Mr. Kapil Sibal, Sr. Adv.
Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Debanjan Mandal, Adv.
Mr. Kunal Chatterji, AOR
Mr. Ayan Chakraborty, Adv.
Ms. Fauzia Shakil, Adv.
Mr. Shourya Dasgupta, Adv.
Ms. Mahima Cholera, Adv.
Ms. Aparajita Jamwal, Adv.
Mr. Shaishir Divatia, Adv.
Mr. Ankur Singhal, Adv.
Mr. Aman Naqvi, Adv.
Mr. Ashish Kumar Pandey, Adv.

Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Vivek Singh, AOR
Mr. Abhisek Mohanty, Adv.

Mr. Kapil Sibal, Sr. Adv.
Dr. Abhishek Manu Singhvi, Sr. Adv.
Mr. Shyam Divan, Sr. Adv.
Mr. Kalyan Banerjee, Sr. Adv.
Mr. Prashant Bhushan, Adv.
Mr. Debanjan Mandal, Adv.
Mr. Kunal Mimani, AOR
Ms. Mahima Cholera, Adv.
Mr. Shaurya Dasgupta, Adv.
Mr. Aman Naqvi, Adv.
Mr. Akshay Luthra, Adv.
Mr. Saishir Divatia, Adv.
Mr. Ankur Singhal, Adv.

Mr. Gopal Shankarnarayanan, Sr. Adv.
Mr. K. Shiva, AOR

Mr. Amales Ray, Sr. Adv.
Mr. Subhro Kanti Roy Chowdhury, Adv.
Mr. Anindo Mukherjee, Adv.
Mr. Rameshwar Prasad Goyal, AOR

Petitioner-in-person

For Respondent(s) : Mr. Dama Seshadri Naidu, Sr. Adv.
Mr. Prateek Kumar, AOR
Mr. Abhinav Thakur, Adv.
Mr. Deepak Sharma, Adv.
Mr. Devansh Rai, Adv.
Mr. Kumar Utsav, Adv.
Mr. Anamika Mishra, Adv.

Dr. Menaka Guruswamy, Sr. Adv.
Mr. Kunal Mimani, AOR

Mr. R. Venkataramani, Attorney General
Mr. Tushar Mehta, Solicitor General
Mr. K.M. Nataraj, A.S.G.
Mr. Vikramjeet Banarjee, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Madhav Sinhal, Adv.
Ms. Shilpa Ohri, Adv.
Mr. Aman Jha, Adv.
Mr. Aman Mehta, Adv.
Mr. Anuj Udupa, Adv.
Mr. Udit Dediya, Adv.
Mr. Kartikay Aggarwal, Adv.
Mr. Raman Yadav, Adv.
Mr. Abhishek Kumar Pandey, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Mr. Chitvan Singhal, Adv.
Mr. Arvind Kumar Sharma (aor), Adv.

IA No.42143/2026
in W.P.(C) No.129/2026

Mr. Barun Kumar Sinha, Adv.
Mrs. Pratibha Sinha, Adv.
Mr. Sneh Vardhan, Adv.
Mr. Rakesh Mudgal, Adv.
Mr. Vaibhav Singh, Adv.
Mr. Anantha Narayan M.G., AOR

UPON hearing the counsel the Court made the following

O R D E R

1. In continuation of the order dated 04.02.2026, we have heard a battery of senior counsel on behalf of the State of West Bengal, other writ petitioners in the connected matters. Similarly, we have heard Mr. Dama Seshadri Naidu, learned senior counsel on behalf of the Election Commission of India (ECI), and other learned senior counsel representing the parties. Mr. Tushar Mehta, learned Solicitor General of India, has also assisted us in W.P. (Civil) No. 1216/2025 and sought to make a pointed reference to the counter affidavit(s) filed by the ECI.

2. At the outset, it may be noted that on the previous date of hearing, i.e., 04.02.2026, Ms. Mamata Banerjee, Chief Minister of the State of West Bengal, also appeared along with her senior counsel in W.P. (C) No. 129 of 2026, filed by her. During the course of the hearing, when an objection regarding the deployment of micro-observers by the ECI was raised, the learned senior counsel representing the ECI pointed out that, despite repeated requests, the State Government had failed to provide adequate manpower, including certain categories of officers/officials

competent to discharge quasi-judicial/assisting duties, to the ECI for the completion of the SIR process.

3. On this count, the Chief Minister of the State made a statement before this Court that she was willing to provide the necessary number of State Government officers/officials who are competent to perform these duties.

4. In purported compliance with the statement made before this Court, we have been shown during the course of the hearing that, on 07.02.2026, the Advocate on Record in W.P. (C) No. 129 of 2026 informed the senior counsel for the ECI that the State Government is ready and willing to make available 8505 Group B officers of the State Government and/or its instrumentalities for the SIR exercise in West Bengal. In the mail, the ECI was required to confirm the need for such Group B officers, and it was stated that the requisite particulars of these officers shall be shared with the ECI.

5. During the course of the hearing, when inquired, it was fairly stated on behalf of the State of West Bengal/the Chief Minister of the State that the list containing particulars of 8505 Group B officers/officials had not been sent to the ECI, as they were awaiting the consent of the Commission in terms of the mail dated 07.02.2026. However, during the course of the hearing, the list of the aforestated Group B officers, working in different departments

of the State Government, was handed over to Mr. Dama Seshadri Naidu, learned senior counsel representing the ECI. That list has also been placed on record before us.

6. Be that as it may, to streamline the ongoing SIR process and address some of the apprehensions expressed by various stakeholders, while reiterating our directions issued on 19.01.2026, we deem it appropriate to issue the following additional directions:

(i) Let the State Government ensure that all 8505 Group B officers/officials, whose list was handed over to the Court today, report to the District Electoral Officers/EROs by 5:00 p.m. tomorrow.

(ii) The ECI shall have the discretion to replace the existing EROs/AEROs and utilise the services of the officers who have now been placed on deputation with the ECI, subject to their suitability for the quasi-judicial or semi-quasi-judicial responsibility. The ECI shall be at liberty to replace the officers who have been prima facie found to have failed to perform their duties.

(iii) In so far as the 8505 officers/officials enumerated on the aforementioned list submitted, the ECI, after briefly scrutinising their bio-data or work experience, may shortlist these officers/officials to a number equivalent to the strength of micro-observers already engaged. These State Government officers/officials may be imparted a brief training of a day or so to assist the EROs/AEROs, along with the micro-observers who have

already been engaged.

(iv) On behalf of the petitioners, reference has been made to certain documents which seemingly suggest that the micro-observers are the final authority. In this context, the ECI has clarified that the micro-observers, as well as the Government officers/officials who will be engaged from tomorrow onwards to assist the EROs, shall only assist the prescribed statutory authority in taking the final decision.

(v) It is made clear that the responsibilities assigned or to be assigned to the micro-observers or the State Government officers/officials shall be limited to assisting the EROs/AEROs in the decision-making process. In other words, and as rightly stated by the learned senior counsel for the ECI, the final decision will be taken by the EROs only.

(vi) Since the process of scrutinising the documents submitted by the affected persons in response to notices served on them is likely to take longer than anticipated, and as suggested on behalf of some of the petitioners, we direct that at least one week beyond 14.02.2026 be granted to the EROs/AEROs to complete the scrutiny of the documents and take an appropriate decision.

(vii) Mr. V. Giri, learned senior counsel appearing in W.P. (C) No. 1216 of 2025, and Mr. Dama Seshadri Naidu, learned senior counsel for the ECI, have referred to the counter affidavit filed by the ECI in that writ petition. The said counter-affidavit, *inter alia*, alleges that, despite complaints by the ECI authorities, no FIRs are being registered against persons suspected of involvement in the alleged burning of records of objections and/or in the

alleged unlawful activities. This is strongly refuted by Dr. Menaka Guruswamy, learned senior counsel representing the State of West Bengal in that writ petition. We are, however, reminded of our order dated 19.01.2026, in which a categorical direction was issued to the Director General of Police, the Superintendent of Police of each district, and the Collector in the State of West Bengal to ensure the maintenance of law and order. We, therefore, show cause to the Director General of Police to file his personal affidavit in response to the allegations made by the ECI in its counter affidavit/additional affidavit in the said writ petition. We will take a final call with respect to the powers of the ECI in this regard, but before doing so, we deem it appropriate to accord an opportunity to the Director General of Police to furnish an explanation on his part.

(viii) The affected persons to whom notices have been served shall be entitled to rely on all or any of the documents referred to by the ECI in the SIR notice, and all such documents, including those referred to in our order dated 19.01.2026, shall be considered by the EROs when passing orders on the objections received in response to the notices served.

(ix) Similarly, the EROs shall be duty-bound to consider the objections, if any, received from the persons as per the statutory scheme, whether or not such persons come forward for a personal hearing. It goes without saying that the genuineness of the documents issued by the competent authority, filed along with these objections, can be scrutinised/verified in the same manner as the documents to be submitted by the affected persons.

7. List on 20.02.2026.

(NITIN TALREJA)
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)
ASSISTANT REGISTRAR