

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

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sm **05.04.
2019**

W.P.A.50 of 2019

Debasis Mallik & Ors.

Versus

The Election Commission of India & Ors.

Mr. Sirsendu Sinha Roy.

.....for the petitioners.

Mr. Dipayan Chowdhury,

Mr. Indranil Roy,

Mr. Sanjit Kumar Dey.

.....for the respondent no.1, 2 & 3.

Let affidavit of service be kept with the record.

It is submitted by the learned advocate representing the petitioners that pursuant to the previous direction deficit court fees has already been deposited in the department and entry number has been allotted to the petitioners as A-06.

The grievance of the writ petitioners herein is that being the professors/assistant professors of a college in the district of Coochbehar, they were allotted the duty of Presiding Officer for the ensuing Parliamentary Election of 2019 without following the seniority considering the posts held by them which will compel them to discharge their election duties under the officers/employees subordinate to them in terms of the hierarchy of posts and in consideration of respective pay scales enjoyed by the petitioners vis-a-vis other officers/employees.

The contention of the writ petitioners jointly canvassed in the writ petition is opposed by Mr. Roy, learned advocate representing the respondent nos.1, 2 & 3. He submits during the course of hearing that the Election Commission has taken all possible steps to follow the relevant notifications issued from time to time with regard to allotment of election duties to the writ petitioners and other officers/employees following the hierarchy of the posts held by them but considering the enormity of the job required to be exercised for conducting the Parliamentary Election there might be stray incidents which may offend the norms relating to allotment of election duty to the respective professors/assistant professors.

It is also the submissions made on behalf of the Election Commission that at this stage when the election is scheduled to be held on 11th April, 2019, it is difficult for them to reallocate the assignment made in favour of the petitioners and other officers/employees.

It is brought to the notice of the court that on similar circumstances a coordinate Bench of this court by passing an order dated 17th March, 2016 directed as follows :-

“Having heard learned advocates for the

appearing parties, there cannot be two opinions that the officers, in charge of conducting elections in the State, would leave no stone unturned to ensure a free and fair election as well as participation in the process thereof by teachers like the petitioners without violating their seniority position vis-à-vis their juniors. If at all any of the petitioners is subjected to any such violation, he shall be at liberty to take appropriate steps in accordance with law.”

Considering the order passed by the coordinate Bench dated 17th March, 2016 no further order need be passed in this writ petition save and except directing the respondent Nos.1, 2 & 3 herein to take steps if possible, in terms of the direction already given by the coordinate Bench in the order dated 17th March, 2016 for the purpose of allotting election duty in favour of the petitioners maintaining the hierarchy of posts held by them as well as taking note of the pay scales enjoyed by them.

Those writ petitioners who failed to participate in the training programme organized by the Election Commission will participate in the training programme to be organized by the concerned authority of the Election Commission and it is submitted on behalf of the writ petitioners that they are willing to participate in the training programme to be organized under the

aegis of the Election Commission and they will be allotted election duty in terms of the directions and observations made above.

Accordingly, this writ petition is disposed of.

There shall be no order as to costs.

Despite service no one appears on behalf of the State respondents, Bikramaditya Ghosh, learned advocate is requested to appear on behalf of the State respondents and his engagement is directed to be regularized by the office of the learned additional government pleader.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties on compliance of all requisite formalities.

(Saugata Bhattacharyya, J.)