

AD. 165.
April 29, 2022.
MNS.

WPA No. 7277 of 2022

Sri Siddhartha Narayan Bhattacharya and others
Vs.
The State of West Bengal and others

Mr. Dibyajyoti Raha,
Mr. Pritam Mukherjee

...for the petitioners.

Mr. Srijan nayak,
Mrs. Rituparna Maitra

...for the respondent nos. 1, 2 and 5.

Mr. P. K. Roy,
Mr. Biplob Das,
Mr. Ankit Sureka

...for the respondent no. 4.

Affidavit-of-service filed in Court today be kept
on record.

The grievance of the petitioners is that a
Special Officer was appointed first vide notification
dated October 16, 2020 and thereafter such
appointment, which was initially for six months, was
extended twice.

By now, it is submitted, the last term, for which
the Special Officer's tenure was extended, has also
expired.

It is contended that the appointment of the
person-in-question as Special Officer was *de hors*
the law in several respects. First, the first
appointment was in terms of Section 36(a) of the

West Bengal Co-operative Societies Act, 2006 (2006 Act) which, as on the date of such appointment, had been amended and there was no existence of Clause (a) of the said Section in the Act at that juncture.

Secondly, the person appointed as Special Officer and extended from time to time in such capacity did not fall within the definition of an 'officer', as contemplated in Section 4(47) of the 2006 Act, not being an officiating State Government Officer.

That apart, it is contended that the extension of the Special officer beyond the first term of six months was itself in contravention of the contemplation of Section 36 of the 2006 Act, since the appointment is stipulated in sub-section (1) of Section 36 to be for a period not exceeding six months from the date of expiry of the period.

Unlike the previous provision as stipulated in the previous Section 36(a) of the proviso, the period of one year is no longer available for a Special Officer to be appointed.

At this juncture, learned counsel appearing for the respondent no. 4 submits that the grievance of the petitioner would be mitigated in the event the election of the society is held expeditiously.

It is pointed out that, under Section 39(8) of the 2006 Act, the highest designated employee of the Co-operative Society shall manage the affairs of the

Co-operative Society till a Board is in a position to function.

In such view of the matter, WPA 7277 of 2022 is disposed of by directing the respondent no. 4, that is, the Commissioner, Co-operative Election Commission, to take immediate steps for conducting the election of the Board of Directors of the Co-operative Society as expeditiously as possible. The petitioners and all other members, including the highest designated employee of the Co-operative Society, shall render all possible cooperation to the Election Commissioner in doing so. The Commissioner shall complete the entire election process as expeditiously as possible, preferably within July 30, 2022.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)