

15.07.2022
Court No. 19
Item no.121
CP

W.P.A. No. 11629 of 2022

Arunava Mishra & ors.
Vs.
The State of West Bengal & ors.

Mr. Soumen Kumar Dutta
Mr. Saibal Acharya
Mr. Subhadeep Chatterjee
Ms. Arpita Kundu
...for the petitioners.

Mr. Jaharlal Dey
Mr. Abdus Salam
...for the State.

Mr. Milan Ch. Bhattacharjee, Sr. Advocate
Ms. Sulagna Bhattacharya
....for the respondent nos. 4 to 6.

Mr. Srijan Nayak
Ms. R. Maitra
.....for the respondent no. 8.

The writ petition is not maintainable in view of the alternative remedy under the provisions of the West Bengal Cooperative Election Commission Regulations, 2012. The remedy of the petitioners will be to raise the dispute before the Election Commission.

It is submitted by Mr. Dutta, learned advocate appearing on behalf of the petitioners, that a representation was sent in the form of a dispute to the Secretary of the Commission on May 31, 2022, which was not entertained.

Mr. Bhattacharjee, learned senior advocate appearing on behalf of the respondent nos. 4 to 6, submits that the representation before the Secretary could not be considered to be a dispute under the provisions of the Regulations with regard to the election. In any event, according to Mr. Bhattacharjee, the Secretary rightly did not entertain the representation as the same was belated. It is further submitted by him that any further opportunity to the petitioners to approach the Commission would be an empty formality as the Commission does not have the power to condone the delay.

Mr. Nayak, learned advocate appearing on behalf of the Secretary, West Bengal Co-operative Election Commission, respondent no.8 herein, submits that the Commission has the authority to assume jurisdiction in case the dispute is raised and reject it if it is not maintainable in law.

Be that as it may, this court cannot entertain an election dispute. The remedy of the petitioners would be to raise the dispute before the Commission in accordance with law. Whether the Commission will accept the election dispute or not, is entirely within the domain of the Commission.

The issue with regard to the maintainability of the election dispute, shall be decided by the Commission

within a period of two weeks from the date of receipt of the election dispute.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)