

S/L 138(ML)
19.07.2022
Court. No. 19
GB

WPA 11811 of 2022

Jagabandhu Mukherjee
VS
The State of West Bengal & Ors.

*Mr. Samim Ahammed,
Mr. Arka Maiti,
Ms. Ambiya Khatun.*

...for the Petitioner.

*Mr. Pradip Kumar Roy,
Mr. Joydeep Roy,
Mr. Arka Nag.*

...for the State.

*Mr. Srijan Nayek,
Mr. Biplab Das,
Mr. Partha Sarathi Pal.*

...for the Co-operative Election Commission.

*Mr. Arunava Ghosh,
Mr. Dwaipayan Sengupta,
Mr. Ravi Kumar Dubey.*

...for the Respondent Nos.5 & 6.

Affidavit-of-service filed in Court today, be kept with the record.

The petitioner is a member of a co-operative society, named and styled as 'Sridharpur Cooperative Bank Limited'. The petitioner is aggrieved by the election notification issued by the Assistant Returning Officer, Sridharpur Cooperative Bank Limited, dated June 13, 2022. It is alleged that the notification did not indicate the place of the election, although the Regulation 3(10)(ii)(f) of the West Bengal Co-operative Election Commission Regulation, 2012 categorically provides that the election notification must contain the place and hour of the polling.

The next submission of Mr. Ahammed, learned advocate for the petitioner is that, after the filing of the writ petition, an information was received that the Commission

was utilizing the services of casual employees of the said bank, for conducting the election. This, according to Mr. Ahammed, was violative of the provisions of Rule 154(c) of the West Bengal Co-operative Societies Rule, 2011.

Mr. Arunava Ghosh, learned advocate appearing on behalf of the respondent nos.5 and 6 submits that the writ petition is not maintainable. The remedy of the petitioner would be before the Election Commission as the dispute raised, falls within the definition of an 'election dispute'. He next submits that the allegation of utilizing the services of casual employees have neither been pleaded nor proved.

Mr. Nayek, learned advocate appearing on behalf of the Co-operative Election Commission submits that the co-operative society has more than 2,200 members and the election will be held in three phases, as such, the places were not notified. The places will be notified zone wise, as per the convenience of the Commission.

Mr. Roy, learned advocate appearing on behalf of the State respondents also submits that the reason why the place was omitted, was only because of the phase wise election.

Be that as it may, the dispute raised is an election dispute and as such, if the petitioner has any grievance with regard to any of the issues involved in the notification, the remedy of the petitioner would be to approach the Commission by filing an appropriate dispute case. The place of the election under Clause 7 of the notification dated June 13, 2022 must be notified in advance, by publishing a

separate corrigendum. The respondents have submitted that the same will be done.

Thus, this Court expects that the State respondents as also the Commission will act and proceed in accordance with law and provisions of Rule 154(c) of the West Bengal Co-operative Societies Rule, 2011 shall be complied with.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)