

17.8.2022
Sl.No.3
sn

WPA 16172 of 2022

**Smt. Debjani Banerjee
Versus
The State of West Bengal & Ors.**

**Mr. Soumya Mazumder
Mr. Dipak Ranjan Mukherjee
Mr. Victor Chatterjee
Mr. Aniruddha Mitra
Mr. Barnamay Basak
...for the petitioner**

**Mr. L.M. Mahata
Mr. P.B. Mahata
..for the State**

**Mr. Srijan Nayak
Mr. Ankit Sureka ..for the respdts.2-4**

**Mr. Pradip Kr.Roy
Mr. Biplab Das ..for the respdt.8**

The learned advocate on record for the petitioner is directed to add West Bengal Co-operative Election Commission as the respondent no.8, in this writ petition.

Mr. Pradip Kr. Roy, learned advocate, who usually appears on behalf of the Election Commission, is requested to appear in this matter. A copy of the writ petition be served upon Mr. Roy, here and now.

The petitioner is a member of the Co-operative Society. Several allegations have been made in the writ petition, with regard to the mismanagement of the affairs of the Society, by the Special Officer. The

Special Officer has been impleaded in the writ petition as the respondent no.5.

The contention of the petitioner is that the Special Officer failed to implement the order of the West Bengal Co-operative Tribunal dated November 21, 2019. The Tribunal modified the award impugned before it, by directing that the total amount of monthly maintenance charges shall be apportioned among 122 members of the Society on the basis of the carpet area of the flats and bungalows, as provided under rule 148(2) of the West Bengal Co-operative Societies Rules, 2011, from the date of the award.

The Tribunal also directed the Board of Directors of the Society, to call a meeting of the General Body of the Society to decide within two months from the order, whether apportionment of the maintenance cost according to the carpet area of 6 flats and 58 bungalows was equitable or not.

It is the specific contention of the petitioner that the life of the Board of Directors expired and thereafter Special Officer/the respondent no.5 was appointed in terms of Section 36(3) of the West Bengal Co-operative Societies Act, 2006. The allegation is that the Special Officer has failed to implement and comply with the order passed by the West Bengal Co-operative Tribunal, Kolkata, in the

absence of the Board. Prayer has been made for removal of the concerned Special Officer on such allegations and on his failure and inability to manage the affairs of the Society.

Mr. Mahata, learned advocate for the State submits that the petitioner has not made out sufficient grounds, which would persuade this Court to remove the Special Officer. General allegation of mis-management of the affairs of the Society and lack of maintenance of the Society, would not be adequate reasons to remove the Special Officer.

Mr. Nayak, learned advocate appearing on behalf of the Registrar of the Co-operative Society and Special Officer submits that the writ petition is vague and lacks material particulars. It is also submitted by Mr. Nayak, that just because the Special Officer failed to recover the maintenance charges in view of the discrepancy with regard to the charges payable by flats and bungalows, such inability could not be a ground for removal of the Special Officer. Direction for holding the election, cannot be passed in the mere asking.

Having heard the controversy between the parties, it appears that the Special Officer was appointed way back in January, 2020. It is not available from the records as to what steps have been taken by the Special Officer to make

arrangement for the election of the Board of Directors.

Without going into the factual aspects with regard to the allegations of failure in collection of maintenance charges and apportionment etc., this Court is of the view that the Co-operative Society which is functioning without a Board of Directors for more than two years, should not suffer. The election cannot be put off for an unending period. The election of the Board of Directors must be held.

The West Bengal Co-operative Election Commission, shall take steps to hold the election and complete the entire process, within a period of three months from date.

The observations made hereinabove, shall not have any impact on any other proceeding.

The writ petition is disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)