

Court No. 22
15.9.2022
(Item No. 8)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 21018 of 2022

Saibur Rahaman @ Saibur Rahaman Sardar & Ors.
VS
The State of West Bengal & Ors.

Md. Sarwar Jahan
Sk. Nayeemul Haque
... for the petitioners
Mr. Nadeem Sulaiman
... for the Madrasah Board
Sk. Md. Galib
Ms. Subhra Nag
.... For the State

Pursuant to the direction made on September 13, 2022 by this Court, the ad valorem Court fees have been paid, as submitted by the learned counsel appearing for the petitioners and in support he has also placed an acknowledgment issued by the relevant department of this Court. Such acknowledgment is kept on record.

The writ petitioners are the intending candidates as guardians' nominees in the election for re-constitution of Managing Committee of **Thanarpara H.M. High Madrasah (H.S.), District – Nadia**. The election is scheduled to be held on September 18, 2022. Pursuant to the notice for holding election **FORM – 3 (MC)** was issued by the jurisdictional District Inspector of Schools, **Annexure P-1** to the writ petition. The petitioners submitted their nomination /candidature, **Annexure P-2** to the writ petition for contesting the election. On August

27, 2022 the petitioners' candidature/nominations were rejected for the reasons ***"Proposer's and seconder's students' admission slip not submitted"*** as would appear from ***Annexure P-3*** to the writ petition.

The grounds on which the nomination could be rejected were also mentioned in the said nomination form, ***Annexure P-2*** to the writ petition.

Challenging these rejections the petitioners moved the instant writ petition.

Mr. Sarwar Jahan, learned advocate appears for the petitioners drawing attention of this Court to the reasons for rejection as mentioned in ***Annexure P-3*** to the writ petition, submitted that, the reasons did not come within the grounds for rejection as mentioned in the nomination form.

He drew attention of this Court to the said ***Form 2 (MC) (Clause 8 of the Procedure)*** and submitted that, the purported reasons for rejection were not those, which were mentioned in the said statutory form. He further drew attention of this Court to Rule 33 from the Constitution of Managing Committee Rules published by way of a notification dated July 5, 2002 by the Government of West Bengal, School Education Department, in exercise of its power under Section 38 of the West Bengal Board of Madrasah Education Act, 1994 and submitted that, in case of any doubt or dispute in the matter of

holding election at any stage, the matter shall be referred to the Board whose decision shall be final.

The learned counsel appearing for Madrasah Board and the learned counsel appearing for the State submitted that, the said Constitution of Managing Committee Rules is the prevailing one under which this election was to be conducted.

After considering the case made out in the writ petition and the reliefs claimed there under and specifically keeping in mind that, the election is scheduled on September 18, 2022, this Court is of the considered view that, the disputes raised in the writ petition can be referred before the Board in terms of Rule 33 of the said Constitution of Managing Committee Rules, who shall take a decision on the issue strictly in accordance with law after considering the relevant records, documents and papers necessary for such consideration and then come to his reasonable conclusion with a reasoned order.

In view of the election being scheduled on September 18, 2022, the Board is directed to decide the issue positively by tomorrow i.e. **September 16, 2022 by 5.00 P.M.** and shall communicate the said reasoned decision to the petitioners and the concerned Headmaster of the relevant Madrasah forthwith thereafter, if necessary by way of **e-mail** or **whatsApp** and/or in any other mode, the Board needs fit and proper.

Mr. Nadeem Sulaiman, learned counsel since participated in the hearing on behalf of the Madrasah Board, is requested to communicate the gist of this order to his client immediately even without waiting for the server copy of the order, if not available to him.

On the above terms, this writ petition being **WPA 21018 of 2022** stands disposed of without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)