

09.11.2022
Item No.17.
Court No.6.
AB

**M.A.T. 1670 of 2022
With
IA CAN 1 of 2022**

**Chandra Churamani Chakraborty & Others
Vs
Saikh Makbul Alam & Others**

Mr. Saurabh Guha Thakurata,
Ms. Nilanjana Sarkarfor the Appellants.

Mr. Prosenjit Mukherjee,
Mr. Saptarshi Chakraborty,
Mr. Jahangir Hossainfor the Respondents /
Writ Petitioners.

Mr. Srijan Nayek,
Ms. Rituparna Maitrafor the State.

By consent of the parties, the appeal and the application are taken up for hearing together.

An order dated September 13, 2022, whereby WPA No.15337 of 2022 and the connected application were disposed of, is sought to be challenged by the present appellants, who were not parties to the writ petition before the learned Single Judge. The appellants have taken out an application for leave to prefer appeal against the order dated September 13, 2022 and for interim stay of operation of the said order.

By the order impugned, the learned Single Judge, without going into the merits of the writ petition, disposed of the same merely by directing the Secretary, Cooperative Election Commission to

expedite the election process of Board of Directors of the Society in question in accordance with law. The present applicants say that they had filed an application before the learned Single Judge for being added as parties to the writ petition. Such application was not allowed and instead, the impugned order was passed.

The writ petitioners say that pursuant to the order of the learned Single Judge, the Deputy Registrar of Cooperative Societies and Returning Officer, Hooghly Range, has issued an order dated September 28, 2022 initiating the process of election by appointing Assistant Returning Officers for conducting election of the Board of Directors of the Society in question.

The present applicants say that the election cannot be held as per the by-laws of the Society and most of the members of the Society are ineligible to contest the election. At least 11 eligible candidates must be there for holding a proper election in accordance with the by-laws but in the present case 11 eligible candidates are not there.

We find that on the day the writ petition was disposed of, the present applicants were not before the learned Single Judge. They chose to stay away. We are not inclined to grant leave to the applicants to prefer this appeal.

However, if the present applicants have good grounds in law to challenge the election process initiated by the Deputy Registrar of Cooperative Societies by his order dated September 28, 2022, they shall not be precluded from doing so before the appropriate forum in accordance with law upon notice to all concerned parties.

M.A.T. No.1670 of 2022 is, accordingly, disposed of along with IA CAN 1 of 2022.

Urgent photostat certified copy of this order, if applied for, be supplied expeditiously after compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)