

16 11.11.2022
Sc Ct. no.22

WPA 24203 OF 2022

Md. Abdur Rofique

Vs.

State of West Bengal & Ors.

Mr. Samim Ahammed
Ms. Ambiya Khatun.

.... For the Petitioner

Mr. Bhaskar Prasad Vaisya
Mr. Suman Dey.

....For the State

Mr. Nadeem Sulaiman

....For the Madrasah
Education Board

Mr. Biswaroop Bhattacharya
Ms. Mayuri Ghosh
Mr. Golam Mohiuddin
Ms. Puja Mondal.

.... For the Respondent
No. 4.

Mr. P. S. Deb Barman
Mr. Shaharayar Alam
Mr. Sakhawat Khandakar
Ms. Debangana Dey Nayak.

....For the Private
Respondents.

This writ petition pertains to a challenge rejecting the nomination of the writ petitioner for the ensuing election of **Managing Committee of the Dantura High Madrasah, District – Birbhum.**

The principal allegation of the writ petitioner was that the election is scheduled on **November 13, 2022** and the nomination was rejected on **November 4, 2022** without giving or showing or furnishing or providing any reason whatsoever to the writ petitioner.

In course of hearing Mr. Biswaroop Bhattacharya, learned counsel representing the Headmaster of the relevant Madrasah made over the statutory form viz. **FORM 2 (MC)** which contains the reasons for rejection/cancellation of the nomination filed by the writ petitioner for contesting the said ensuing election.

After considering the submissions made on behalf of the appearing parties and on perusal of materials on record it appears to this Court that **Clause 3 of appendix – 1 of the Management of Recognised Non-Government Madrasah (Aided and Unaided) Rules, 2002** specifically provides for ***that in a 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.***

In view of the above, this Court is of the firm opinion that to decide the issue of rejection of nomination would involve several fact finding inquiries which cannot be gone into by this Writ Court and more so when a specific statutory grievance redressal authority is mentioned under the statute.

It is trite that only in a rarest of the rare occasion the Writ Court may intervene with the election process under exceptional circumstance. It is not such in the facts of the instant case. In the event, the statutory authority after being applied for comes to a finding that the rejection of nomination of the writ petitioner was

illegal or wrongful, it has ample authority to upset the entire election process.

In the event the grievance is forwarded before the Board by the petitioner, the Board shall decide the same after giving an opportunity of hearing to the petitioner, school authority and all other contesting candidates and shall pass its reasoned order on the issue as expeditiously as possible.

It is made clear that the ensuing election of the relevant Madrasah shall abide by the decision of the Board so directed to be taken.

It is made clear that this Court has not gone into the merits of the claim of the writ petitioner.

The writ petitioner shall be at liberty to urge whatever points available to him before the Board and shall rely upon whatever records and documents he wishes to rely upon.

With the above observation this writ petition, **WPA 24203 of 2022** stands disposed of, without any order as to costs.

Since affidavits are not called for, the allegations made in the writ petition are deemed not to have been admitted by the respondents.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)