

20.2.2023
Sl. No.20
sn

W.P.A. No. 980 of 2023

Jefir Ahamad

Vs.

The State of West Bengal & Ors.

Md. Nauroz Rahber

Mr. Muhammad Jawwad

....for the petitioner.

Mr. Santanu Kumar Mitra

Mr. Subhabrata Das

..for the State

Ms. Sangita Roy

..for the Election Commission

The contention of the petitioner is that the seat of the Pradhan of Goagaon-I Gram Panchayat should be either reserved for general category or for the backward classes, based on rotational rostering system and the nature of voters.

The petitioner relies on some documents to show that in the Panchayat Election of 2018, the seat of the Pradhan of Goagaon I, gram panchayat was reserved for Scheduled Caste. In the 2023 election, the seat of the Pradhan should be open for a general candidate or a candidate belonging to the backward class. The petitioner submits that the rules provide for rotational reservation.

The next contention of the petitioner is that the prescribed authority did not consider his allegations

and rejected the same without applying the appropriate rules and notifications in this regard.

The petitioner claims that the total number of voters in Goagaon-I gram panchayat was 16061. The voting population of general and backward classes taken together formed 81% of the voters. Whereas, total number of voters under the Scheduled Caste Category was 2411 out of 16061, which was 18%. The voting population of Schedule Tribe was 568 out of 16061 which was around 1%.

Thus, according to the petitioner, the seat of Pradhan should either be unreserved or reserved for for backward classes.

To deal with the above contention, Rule 2A(1)(a) of the West Bengal Panchayat (Constitution) Rules, 1975 is taken into consideration. The rule provides as follows:-

“(a) the Scheduled Castes and the Scheduled Tribes shall bear, as nearly as may be, the same proportion to the total number of the offices of the Pradhan, the Upa-Pradhan, the Sabhapati or the Sahakari Sabhapati, as the case may be, in the district as the population of the Scheduled Castes or the Scheduled Tribes, as the case may be, in the Blocks within the district, bears with the total population in the Blocks,”

The Rules further provide the manner in which the reservation is to be made with the ceiling limit of fifty percent. If the ceiling limit exceeded fifty percent of Scheduled Castes and Schedule Tribes category, the number of offices for each category was to be reduced in the proportion of the population of the Scheduled Casts and Scheduled Tribes. Thus, the contention of the petitioner that the reservation should be made on the basis of the number of voters of a particular category (SC,ST,UR,OBC), is not correct.

The reservation is made upon consideration of the total population of the concerned district and the percentage of Scheduled Castes and Scheduled Tribe and Backward Classes who reside in the said district.

Rule 2A(2)(a) provides that the offices shall be reserved by rotation for the Scheduled Castes, the Scheduled Tribes and Other Backward Classes, as the case may be. However, it is submitted by the learned advocate for the State respondents that as per the notification of the West Bengal State Election Commission dated July 29, 2022, the present panchayat election must be treated as the 'First Term of General Election' as the delimitation of the constituencies within the district of Uttar Dinajpur had been effected in 2022. The Roster for the first

term of general election had to be followed, as per the said notification.

The first term roster is contained in Schedule-I of the West Bengal Panchayat (Constitution) Rules, 1975.

Thus, the allegation of the petitioner that the rotational system was not followed, is also not established in view of the above fact. The court now examines the method by which the authorities have prepared the list of the gram panchayats in respect of which the seats of the Pradhan were reserved. The total population of the Uttar Dinajpur is 3087383 out of which, Scheduled Tribe population is 170096 being 5.51%, population of Scheduled Caste is 854488, being 27.68%. The total number of Backward Classes is 1613902, being 52.27%. The total number of Gram Panchayat in Uttar Dinajpur district is 98. Thus, in 98 gram panchayats there are 98 Pradhans. The reservation cannot exceed 50%, meaning thereby, 49 seats out of 98 seats of the Pradhan was to be reserved.

Therefore, offices of the Pradhan was to be reserved as follows:-

Scheduled Tribe – 5
 Scheduled Caste – 27
 Backward Classes – $49 - (5 + 27) = 49 - 32 = 17$

Calculation had been made as per the prescribed rules.

The Gram Panchayat was given sequential serial numbers according to the number allotted to the constituencies in the Assembly Elections and/or the number assigned to the polling stations under the Assembly Constituencies.

Once the sequential arrangement of the gram panchayat was made as per the above procedure, the roster as per Schedule 1 of 1975 Rule was applied and the seats were accordingly reserved.

According to the Election Commission's Notification, after the delimitation of seats in 2022, the 2023 election was to be treated as the First term Election of the gram panchayat, for the district of Uttar Dinajpur.

Once the sequential numbering of the gram panchayat had been determined, the entire reservation system was followed as per roster. The category/caste of the voters is not the determining factor. The Court does not find any reason for the petitioner to apprehend that the voters who either belong to the general category or the backward classes would not be served by a schedule caste Pradhan.

As the ceiling limit for total reservation is 50% and the State Election of 2023 is treated as the first term election, after delimitation, the calculation may

result in reservation of the seat of the Pradhan for a schedule caste candidate for two consecutive terms.

The petitioner's case is based only on the ground that as the majority of the voters belonged to either general category or OBC, the Pradhan's seat ought to be either unreserved or reserved for a OBC. The petitioner has not been able to show any rule or notification in support of such contention. He only submits that the system was undemocratic and in violation of Article 14 of the Constitution of India. Whereas, the process has been explained in great details in the report and the Rules have been followed.

This writ petition is disposed of without any orders.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)