

25.5.2023
4
Ct. no. 7
sb

WPA 11770 of 2023

**Jahidul Sekh
Vs.
The Election Commission of India & Ors.**

Mr. Gangadhar Das
Mr. Tanmoy Chattopadhyay ...for the petitioner

Ms. Salma S. Shah
Mr. Saikat Chatterjee
...for the respondent nos. 9 & 10

Mr. Raja Saha
Mr. Shamim Ul Bari
...for the State respondent

Ms. Sonal Sinhafor the respondent no. 2

Mr. Anuran Samanta ...for the ECI

The petitioner is bona fide voter of 49, Manichchak Legislative Assembly. The respondent no. 9 is also a bona fide voter having her EPIC card no. JSL 247413. It is the case of the petitioner that the respondent no. 10 had migrated to the State of Telengana and settled there. He is not an ordinary resident of the State of West Bengal as he had migrated to Telengana, there is every reason to suspect that respondent no. 10 has voter identity card at Telengana or Andhra Pradesh. Respondent no. 9, after her marriage with respondent no. 10, obtained an EPIC card and recorded her name in the voters card of Andhra

Pradesh despite having her EPIC card of 49, Manichchak Legislative Assembly.

It is the grievance of the petitioner that one person cannot enter his/her name as a voter in more than one constituencies since respondent no. 9 entered her name in the voter list of Andhra Pradesh and she is the wife of respondent no. 10. The petitioner prayed for an enquiry to consider as to whether the respondent no. 9 and 10 obtained two EPIC cards from two constituencies.

It is further submitted by the petitioner that his objection in Form-7 submitted on 9th March, 2023, was firstly shown to be rejected on 17th March, 2023 with the reasons that incorrect details of the person in respect of whom objection has been raised, was given.

Subsequently, the petitioner confronted the concerned official about the fate of his objection and he received the aforesaid reply. It is the grievance of the petitioner that his objection was rejected without giving an opportunity to him of being heard, the rule of audi alteram partem was denied to the petitioner, practically no hearing was made by the concerned authority.

It is submitted on behalf of the respondent no. 9 that she has already surrendered her EPIC card on 24th September, 2022, issued by a Constituency at Telengana and after her surrender, the petitioner filed an application in Form-6 for obtaining voters card of 49, Manichchak Legislative Assembly.

Be that as it may, the instant writ petition is disposed of by directing the petitioner to serve a copy of the instant writ petition to the Electoral Registration Officer (ERO)/respondent no. 6 who will treat the said copy of the writ petition as a representation/application under Form-7 within three weeks from the date of communication of the order and dispose of the same afresh by giving an opportunity of hearing of both the parties.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Bibek Chaudhuri, J.)