

AD-17
Ct No.09
20.06.2023
TN

WPA No. 14536 of 2023

Sheik Azam Ali
Vs.
The Election Commission of India and others

Mr. Saikat Chatterjee,
Ms. Salma Sultana Shah,
Ms. Sumi Hussain,
Mr. Puranjan Pal

.... for the petitioner

Mr. Anuran Samanta

.... for the ECI

Mr. Tanmoy Chattopadhyay,
Mr. Gangadhar Das

.... for the intervenor

Learned counsel for the petitioner contends that Section 49 of the West Bengal Panchayat Elections Act, 2003 (hereinafter referred to as “the 2003 Act”) has been patently violated by the respondent-authorities. It is submitted that the Election Returning Officer of the Panchayat Elections in West Bengal, held recently, refused to accept the petitioner’s candidature at the juncture of scrutiny, without recording any reasons whatsoever as contemplated under the statute, for such refusal. It is argued that the matter is extremely urgent and, as such, an interim order be passed by this court.

It is pointed out by learned counsel for the Central Election Commission that the said authority is not concerned with the present election at all and, as such, has nothing to submit on merits.

An intervention is sought by the complainant, on the basis of whose complaint apparently the petitioner's candidature was rejected. It is submitted on behalf of the said complainant, namely, Azahar Sk., that the writ court, under Article 226 of the Constitution of India ought not to interfere in a dispute in connection with an election.

For such purpose, learned counsel cites the judgment of *N.P. Ponnuswami vs. Returning Officer, Namakkal Constituency and Others*, reported at 1952 SCR 218. In the said judgment, the question of maintainability of a writ petition with regard to an election to legislatures, keeping in view the provisions of Articles 324 to 329, was considered.

Learned counsel submits that in view of Section 80 of the 2003 Act of West Bengal, a similar provision has been introduced in the said Act as well, and no elections to Panchayats shall be called in question except by an election petition presented in accordance with the provisions of law.

Upon considering the submissions of the parties on the question of maintainability, it is clear that

since the present dispute involves the rejection of candidature of a candidate in the Panchayat elections, the said challenge shall be governed by Section 80 of the 2003 Act. As such, there is limited or no scope for this court to interfere in the present dispute.

Accordingly, WPA No. 14536 of 2023 is disposed of without interfering with the present matter; however, granting liberty to the petitioner to approach the appropriate authority within the contemplation of the West Bengal Panchayat Elections Act, 2003 for the relief as sought in the present writ petition.

If so approached, the said authority shall decide the issue independently and in accordance with law without being hindered in any manner or influenced by any of the observations made herein or the present rejection.

The parties shall act on the communication of the learned Advocates without insisting upon prior production of a certified copy.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)