

26-06-2023
ct no. 24
Sl. 07
Suppl. list
Sayandeep

WPA 15006 of 2023

Tapas Pramanik
-Versus-
The Secretary, West Bengal State Election
Commission & Ors.

Mr. Sankar Prasad Dalapati
Mr. Anup Dasgupta
Mr. Rajib Kumar Acharya
Mr. Arka Bhattacharya
Mr. Banshi Badan Maity
Mr. Abhisek Addya
Mr. Sudipta Maiti
Mr. Sourav Mondal
Ms. Tanushree Ghosh

.....for the petitioner

Ms. Sonal Sinha
Mr. Tarun Kr. Chatterjee
Mr. Sujit Gupta
Mr. Sayan Datta
Mr. Soumen Chatterjee

.....for the Election Commission

Mr. Lalit Mohan Mahata
Mr. Rudranil De

.....for the State

This is the second round of litigation initiated at the instance of the petitioner. In the first round the contention of the petitioner was that his candidature was illegally rejected.

The Court in the earlier writ petition filed by the petitioner being WPA 14486 of 2023

passed order on 20th June, 2023 directing the respondent authority to scrutinize the nomination papers filed by the petitioner.

In compliance of the direction passed by the Court, the nomination papers of the petitioner were scrutinized and the authority has come to a considered opinion that the petitioner is a contractual employee of the gram panchayat and gets payment on regular basis. In view of his contractual engagement, he will not be eligible to contest the panchayat election.

The petitioner is aggrieved by the same.

It has been submitted that the cancellation is *mala fide* and the same is liable to be set aside by the Court.

It has been submitted that the dispute in question cannot be treated as an election dispute and the writ Court will be the competent forum to decide the issue.

In support of such submission, the petitioner relies upon the decision passed by a three Judge Bench of the Hon'ble Supreme Court in the matter of **Election Commission of India through Secretary vs. Ashok Kumar and Ors.** reported in **(2000) 8 SCC 216**.

I have perused the rejection order passed and the judgment of the Hon'ble Supreme Court relied upon by the petitioner. The order of rejection is a detailed one citing various grounds.

I am of the view that the validity of the rejection order cannot be adjudicated by this Court at this stage. The appropriate remedy would be to file an election petition for settling the dispute.

In view of the above, no relief can be granted to the petitioner in the instant case. The writ petition fails and is hereby dismissed.

Dismissal of the writ petition will however not stand in the way of the petitioner to approach the appropriate forum for relief in accordance with law, if so advised.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)