

Item No.7

In The High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side

30.06.2023
Ct-24

WPA 15344 of 2023
Sk Alim

v.

West Bengal State Election Commission & Ors.

Mr. Sabyasachi Chatterjee
Mr. Sandipan Das
Mr. Dipankar Das
... for the petitioner.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
... for the State.

Ms. Sonal Sinha
Mr. Tarun Kumar Chatterjee
Mr. Sujit Gupta
Mr. Sayan Datta
Mr. Soumen Chatterjee
... for the State Election Commission.

The petitioner is a contesting candidate in the Panchayat General Elections, 2023. He has raised allegation of non-disclosure of relevant details in the nomination form filed by the private respondent.

According to the petitioner the nomination papers of the private respondent do not disclose the proper annual income, the names of the banks from where loan has been obtained and complains that names of false witnesses have been incorporated.

The objection filed before the Election Commission has been responded by the Panchayat Returning Officer mentioning that during scrutiny of nomination papers

no affidavit of counter declaration was presented before the Returning Officer over the issue of the complaint. In the absence of proper affidavit, steps could not be taken.

The petitioner prays for a direction upon the Commission to re-scrutinize the nomination papers of the private respondent. The prayer of the petitioner is opposed by the learned advocate representing the Commission and the State respondents.

It has been submitted that the relevant details of the contesting candidates were duly uploaded in the GEMS portal and also in the notice board of the Panchayat.

It has been submitted that till a formal objection is raised, it is not possible for the Panchayat Returning Officer to verify each and every document and information furnished by prospective candidates.

From the submissions made on behalf of the parties it appears that in the nomination papers a candidate is required to disclose the details of the criminal cases pending against him, the names and address of the bank/institution from where loan has been obtained and the names and addresses of the witnesses.

According to the petitioner all the relevant details and information have not been disclosed. The petitioner has annexed documents to suggest that the candidates are involved in criminal cases and they have not disclosed the names and addresses of the banks or the institution from where loan has been obtained

Though formal affidavit has not been filed by the petitioner but the authority can take steps in terms of

the averments made in the writ petition which has been filed after due affirmation.

In view of the above, the instant writ petition is disposed of by directing the Commission to re-scrutinize the details of the candidates mentioned in the writ petition and if it appears that there is any error in the details, non-disclosure of relevant information or there are defects in the nomination papers, then necessary consequential steps shall be taken in the matter.

The Commission shall take a decision in the matter at the earliest but positively by July 5, 2023.

The instruction forwarded by the Block Development Officer, Dubrajpur Development Block be retained with the records.

The writ petition stands disposed of.

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

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(Amrita Sinha, J.)