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04.07.2023
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 15728 of 2023

**Pradyot Kumar Datta & Anr.
-versus
The West Bengal State Election Commission & Ors.**

**Ms. Susmita Saha Dutta
Mr. Niladri Saha
Ms. Madhurima Basu
...For the Petitioners.**

**Ms. Sonal Sinha,
Mr. Tarun Chatterjee,
Mr. Sujit Gupta,
Mr. Sayan Datta,
Mr. Soumen Chatterjee
...For the State Election Commission.**

**Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag
...For the State.**

The petitioners are serving as Group A Officers-Associate Professors in Shyam Sundar College. They have been appointed as the Presiding Officers in the Panchayat General Elections, 2023.

The petitioners relies upon the directive of the Election Commission of India dated 16/17 February, 2010 mentioning that the Commission desires that Group-A or equivalent senior officers including the teaching staff of universities and colleges etc. should not be drafted for 'polling duties' in polling station premises without specific reasons to be recorded in writing by the

District Election Officer, where such appointments become unavoidable.

Reference has also been made to a directive by the West Bengal State Election Commission to all the District Magistrates in the State dated May 10, 2018 mentioning that seniority of officials should properly be taken care of. While giving election related duty it should be ensured that a senior official is not put on duty under an official who is quite junior to him/her.

According to the petitioners, they ought not to have been appointed as Presiding Officers but they should have been appointed as Micro Observers.

Learned advocate representing the State respondents submits, upon instruction that, the first appointment orders after lawful process were generated for polling personnel from available pool of employees including the petitioners.

The total number of polling stations in the State is 2405 and there is requirement of 15,640 Polling Officers. There is requirement of 3128 Presiding Officers to be deployed.

The Presiding Officer is the apex officer inside the polling station. There is no question of disregarding the seniority of a Group-A employee. If all Group-A employees are exempted or their polling duty cancelled, there will be acute shortage of Presiding/Polling Officers and it would be difficult to manage the election procedure. The appointment of polling duty is done only in unavoidable circumstances.

It appears from the submissions made on behalf of both the parties that the petitioners do not seek

complete exemption from polling duty. The petitioners are agreeable to perform election duty, however, subject to maintaining the proper seniority and hierarchy in service.

The Election Commission is, accordingly, directed to take necessary steps to ensure that hierarchy in service is strictly maintained at the time of detailment of duty.

At the time of detailment of duty, the Commission shall take into consideration the entire election apparatus and not restrict the consideration only to the polling booths.

A decision shall be taken in the matter at the earliest but positively by July 5, 2023.

It will be open for the petitioners to attend the training without prejudice to their rights and contentions in the instant writ petition.

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.

(Amrita Sinha, J.)