

SL 07
05.07.2023
AGM

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

W.P.A 15942 of 2023

**Ustur Ali Biswas
-versus
The Commissioner, West Bengal State Election
Commission & Ors.**

**Mr. Kamalesh Jha
Mr. Raju Mondal
...For the Petitioner.**

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

**Mr. Lalit Mohan Mahato
Mr. Rudranil Dey
...For the State.**

The petitioner is aggrieved by the inaction on the part of the State Election Commissioner in not cancelling the candidature of the private respondents who are contesting the Panchayat General Elections, 2023 and who have failed to disclose his criminal antecedents in the declaration filed by them at the time of filing the nomination papers.

The complaint of the petitioner was enquired by the District Panchayat Election Officer and the District Magistrate.

From the report filed by the said officer, it appears that the private respondents are accused in criminal cases which are pending till date.

The reason forwarded by the State Election Commissioner for not cancelling the candidature of the said candidates is that no counter affidavit was filed against the private respondents and after completion of the scrutiny unsigned petitions were received against the said candidates.

Further reason for non-cancellation is that the criminal cases were pending and yet to reach conclusion.

It appears from the impugned order of the State Election Commissioner that the said authority completely misread and misinterpreted the requirement of disclosing all details of the prospective candidates. All candidates are required to furnish details of the criminal proceedings pending against them so that the voters may cast their vote on an informed decision after getting knowledge of the same.

There is, however, no bar in contesting the elections till the accused is convicted.

Non disclosure of the criminal antecedents is definitely a ground for cancellation of the nomination.

It appears that in the present case the fact of pendency of the criminal case came to the knowledge of the election authority after the date of scrutiny was over. Possibly for the said reason, the candidature of the private respondents was not cancelled.

Improper acceptance of the nomination paper and committing corrupt practice are good grounds for filing election petition. Presently, the final list of the contesting candidates has been published and, accordingly, there is no scope for interference by the writ court.

The instant writ petition is, accordingly, disposed of by granting liberty to the petitioner to approach the appropriate forum for redressal of his grievance, if so advised.

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.)