

SL 08
07.07.2023
AGM

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

W.P.A 16095 of 2023

**Sarfaraj Shah
-versus
The West Bengal State Election Commission & Ors.**

**Mr. Ritzu Ghosal
Mr. Debanik Banerjee
Mr. Akash Ganguly
...For the Petitioner.**

**Mr. Jishnu Saha, Sr. Adv.
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 petitioner is aggrieved by the reasoned order dated 27th June, 2023 passed by the State Election Commissioner, West Bengal State Election Commission, allegedly in compliance with the direction passed by this Court in WPA 14526 of 2023 on 21st June, 2023.

By the said order the Court directed the Commission to take a decision on the representation filed by the petitioner seeking shifting of counting centre from Nayachak Jadunath High School to Hakola U. C. High School.

It appears that the petitioner filed a further writ petition being WPA 15790 of 2023 seeking for a direction upon the Commission to act in accordance

with their order being No. 1434-SEC/5C-14/2023 dated 21st June, 2023 which mentions about a Centralized Counting Centre. The said writ petition was disposed of on 4th July, 2023 directing the Panchayat Returning Officers to act in accordance with the aforesaid directive.

The present writ petition has been filed alleging that the directive passed in the order dated 21st June, 2023 regarding the Centralized Counting Centre was not being followed and the Commission deliberately selected the Nayachak Jadunath High School as the counting centre which is contrary to the aforesaid directive.

Specific contention is that Nayachak Jadunath High School is the polling booth and accordingly, the same ought not to be treated as the centralized counting centre.

Further contention of the petitioner is that the Commission ought to have disclosed the impugned order dated 27th June, 2023 when the second writ petition was filed by the petitioner and which stood disposed of by the Court on 4th of July, 2023 long after the impugned order was passed.

Learned senior counsel appearing on behalf of the Commission, submits upon instruction that, the aforesaid Nayachak Jadunath High School has been selected as the Centralized Counting Centre and the ballot boxes from as many as 234 booths will be collected at the said centre.

It has further been submitted that the directions passed by the Hon'ble PIL Bench in CPAN 831 of 2023 (Suvendu Adhikari & Anr -Vs- Rajiva Sinha) regarding deployment of the central forces at the time of transportation of the ballot boxes to the receiving stations for safeguarding the same and also at the time

of counting till the declaration of results will be strictly followed.

It has been submitted that the Hon'ble Division Bench has clearly mentioned that the central forces shall continue to remain in the State for a period of ten days from the date on which the results will be declared and all other subsidiary issues may be brought to the notice of the State Election Commission or to any of the control rooms which have been established throughout the State or to any of the observers who have been nominated by the Commission. The issues shall be taken serious note of, examined and appropriate step be taken to redress all genuine grievances.

Learned advocate representing the State respondents, submits, upon instruction that, the District Magistrate and the District Panchayat Election Officer, Howrah has already requested for arrangement of appropriate security measures in the DC-RC and counting venue at Nayachak Jadunath High School.

The discussions which took place between the stakeholders for selecting the Nayachak Jadunath High School to be the Centralized Counting Centre have also been placed before this Court.

The contention of the petitioner that Hakola U. C. High School could have been a better counting centre was negated by the Commission.

It is noticed that the Panchayat Elections are scheduled to be held on tomorrow (08.07.2023). Any interference at this stage may cause disruption in the election process. It appears that the District Panchayat Election Officer has sought for appropriate security measures in the Nayachak Jadunath High School.

The Election Commission, Superintendent of Police as well as the IG, BSF being the nodal officer are directed to take steps strictly in accordance with the direction passed by the Hon'ble Division Bench on 6th

July, 2023 and ensure that there is enough security both at the receiving section and the counting centre and also in the entire process of transportation of the ballot boxes to the centralized counting station. The ballot boxes are to be safely preserved in the counting station. There shall be deployment of adequate central forces as well as State police to make sure that no untoward incident takes place either at the time of voting or thereafter. The security arrangement shall be tight enough to maintain the purity in the election process and that none can allege that the election was not free and fair.

In line with the hope expressed by the Hon'ble Division Bench, this Court also hopes that the election of the Panchayat may be held peacefully and the public will be entitled to cast their vote without any fear in their mind.

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.)