

08.08.2023.
Court No.24
Item No. 13
pk

W.P.A. No. 16702 of 2023

**Samir Das
Versus
The State of West Bengal and others**

Mr. Sanchita Barman Roy
...For the petitioner.

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

Report in the form of affidavit on behalf of the respondent nos. 3 and 4 is taken on record.

Report mentions that there was a tie in between the two candidates and the result was declared after draw of lots. The petitioner lodged complaint after declaration of the result.

Learned advocate for the respondents contends that the counting agent of the petitioner was all along present at the time of counting till the holding of lots and declaration of result. No complaint was lodged at that point of time. Complaint was lodged after declaration of the result.

Learned advocate for the petitioner contends that the petitioner was declared as the winning candidate but thereafter two extra votes were added.

It appears from the submissions made on behalf of both the parties that the facts pleaded by the parties

are required to be ascertained upon adducing evidence. Without taking evidence, the genuineness of the facts cannot be ascertained. The disputed questions of facts cannot be adjudicated in the instant writ petition.

In view of the above, the instant writ petition is disposed of granting relief to the petitioner to approach the competent forum with an election petition for redressal of his grievance, if so advised.

The respondents are directed to preserve the CCTV/Video footages on the date of counting as well as on the date of poll and to produce the same as and when directed.

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.)