

Item No.13

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

06.09.2023
Ct-24

WPA 16964 of 2023
Samiuddin Rahaman

v.

The Secretary of West Bengal Election Commission &
Ors.

Mr. Jagabandhu Roy
Mr. Samudra Nil Sarkar
... for the petitioner.

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

Mr. Lalit Mohan Mahata
Mr. Ziaul Haque
... for the State.

The report in the form of affidavit filed by the Assistant Panchayat Returning Officer and Block Development Officer, Harishchandrapur-II Development Block be retained with the records.

The petitioner contested the Panchayat General Elections, 2023 of the Malda Zilla Parishad. His allegation is that all the ballot papers in respect of a particular booth stood cancelled allegedly on the ground that the ballot papers of the Zilla Parishad got interchanged with the ballot papers of the Panchayat Samity.

It appears that the ballot papers meant for the Zilla Parishad were inserted into the ballot box meant for

the Panchayat Samity. Likewise, the ballot papers meant for the Panchayat Samity were inserted into the ballot box meant for the Zilla Parishad.

According to the provision of Rule 88(2)(h), the Presiding Officer shall reject a ballot paper if it is found in a ballot box other than the ballot box in which it should have been inserted.

Relying upon the aforesaid provision, the ballot papers meant for the Panchayat Samity as well as the Zilla Parishad stood rejected. There were as many as 801 ballot papers for the Zilla Parishad voting and 798 ballot papers for the Panchayat Samity voting. The entire set of ballot papers in respect of 87, Chandpur Primary School (Room No. 1 Polling Booth) stood rejected.

An application for recounting appears to have been submitted on July 12, 2023 but on a perusal of the said application it appears that the specific ground alleging interchange of the ballot papers was not mentioned therein. A separate application praying for recounting was submitted on July 17, 2023 but the same also does not mention the ground of interchange of ballot papers in the ballot boxes.

The result of the election was declared on July 11, 2023. The petitioner claims to have lost by 42 votes.

It appears that the petitioner failed to approach the authority within the specified time period praying for recounting of the votes. Moreover, according to the provision of law mentioned hereinabove, the ballot papers which are not meant for a particular tier cannot be taken to be a valid one if the said ballot papers were inserted in a different ballot box. There is no apparent

error on the part of the respondent authorities in cancelling the entire ballot papers of the said booth.

No relief can be granted to the petitioner in the instant writ petition.

The writ petition fails and is hereby dismissed.

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.)