

21.
17-11-2023
(Ct. no.06)
debajyoti

**IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
APPELLATE SIDE**

**MAT 1448 of 2023
+
IA NO:CAN/1/2023**

**Julekha Khatun
Vs.
The State of West Bengal & Ors.**

Mr. Mukul Lahiri, Sr. Adv.,
Mr. Prasenjit Barman,
Mr. Soumyajit Mondal
... For the Appellant.

Mr. Lalit Mohan Mahata,
Mr. Rudranil De
... For the State.

By consent of the appearing parties, the appeal and the application are taken up together for hearing.

The appellant approached the learned Single Judge complaining of booth capturing, false voting, violence and illegality at the time of counting of votes in the Panchayat General Elections, 2023, which the appellant contested as a candidate. She lost by 50 votes. She lodged a complaint on July 15, 2023. The counting had been completed on July 11, 2023.

The learned Judge, however, observed that the complaint was lodged long after declaration of the result of the election and the complaint lodged by the writ petitioner does not merit any consideration. Accordingly, the writ petition was dismissed. Hence, this appeal at the instance of the writ petitioner.

We have opined in the case of *Munsi Nazbul Karim Vs. The West Bengal State Election Commission & Ors. (MAT 1339 of 2023)* that any election dispute has to be taken for adjudication by way of election petition before the appropriate forum in view of the provisions of Article 243-O of the Constitution of India read with the relevant provisions of the West Bengal Panchayat Election Act, 2003. Those provisions of law constitute a legal bar to election disputes being considered by any other legal forum.

However, if the appellant has made a representation to the Election Commissioner, nothing would seem to be standing in the way of the Commissioner to consider and dispose of such representation in accordance with law.

Accordingly, we direct the State Election Commissioner to consider and dispose of the appellant's representation dated July 15, 2023, in accordance with law, after granting an opportunity of hearing to the appellant and the private respondent or their authorized representatives. Such exercise should be completed within four weeks from the date of communication of this order accompanied by a copy of the representation by the appellant to the State Election Commissioner and a reasoned order will be passed. We make it clear that we have not gone into the merits of the appellant's grievance. The State Election Commissioner shall decide the appellant's representation in accordance with the applicable law observing the principles of natural justice.

The appeal and the connected application are, accordingly, disposed of.

Affidavits not having been called for, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of all necessary formalities.

(Arijit Banerjee, J.)

(Apurba Sinha Ray, J.)