

APOT/346/2023
with
WPO/1563/2023
IA NO:GA/1/2023

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

TALAT AHMED
Vs.
STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE ARIJIT BANERJEE
AND
The Hon'ble JUSTICE APURBA SINHA RAY
Date : October 9, 2023.

Appearance:

Mr. Mainak Bose, Advocate
Mr. Lokesh Sharma, Advocate
Mr. Rachit Lakhmani, Advocate
....for appellant

Mr. Srijan Nayek, Advocate
Ms. Rituparana Maitra, Advocate
... Election Commission
Mr. Ankit Sureka, Advocate

Mr. Biplab Das, Advocate
..for respondent nos. 3 & 4

Mr. Sandeep Prasad Shaw, Advocate
Mr. Raju Baroi, Advocate
Ms. Priyanka Gupta, Advocate
Mr. Rishav Gupta, Advocate
...for respondent nos. 5, 6 & 7

The Court: By consent of the parties, the appeal and the connected application are taken up for hearing together.

Read order dated September 27, 2023, wherein we had recorded the material facts of the case.

Today Mr. Nayek, learned advocate representing the Co-operative Election Commission, says that the process of conducting election of new Board of Directors has been initiated. It is expected that election will be completed within eight weeks from date.

The question is, whether an independent person should be appointed for supervising the affairs of the Society till the time a new Board of Directors is constituted. We are of the view that the same may not be necessary. The present Board, whatever be its constitution, has been functioning for some time. Let it continue to function till constitution of a new Board of Directors but with certain restrictions on their power as indicated in this order:

- (i) No major policy decision will be taken by the present Board.
- (ii) No capital expenditure will be incurred by the present Board.
- (iii) No investment shall be undertaken by the present Board.
- (iv) We are told that the annual general meeting of the Society was held on September 24, 2023. The decisions taken at such meeting and particularly those which have financial implications for the Society shall be placed before the newly constituted Board of Directors and only thereafter, shall be acted upon.
- (v) Day-to-day expenses naturally will be incurred by the present Board from the funds of the Society.

- (vi) The election expenses shall also be met out of the Society's funds.
- (vii) The present Board shall keep fortnightly accounts of all expenses incurred by it.
- (viii) If any member requests for statement of such accounts, the same shall be supplied to him.
- (ix) The Statement of Accounts shall be placed before the newly constituted Board of Directors.

These directions are made in the peculiar facts and circumstances of the case and will not be treated as a precedent.

The appeal and the connected application are disposed of accordingly.

Since we have not called for affidavits, the allegations made in the application are deemed not to have been admitted by the respondents.

(ARIJIT BANERJEE, J.)

(APURBA SINHA RAY, J.)