

Ml- 14.08.2024
128 Ct.18
rkd

W.P.A. 8153 of 2023

Bijoy Das & Ors.

-vs-

The State of West Bengal & Ors.

Mr. Anjan Bhattacharyya

....for the petitioners.

Mr. S. Chatterjee,

Mr. A. Ghosh

....for the respondent nos. 6 & 7.

Ms. Koyeli Bhattacharyya,

Mr. Bibek Dutta

....for the WBBSE.

Mr. Supriyo Chattopadhyay,

Ms. Sayantanee Bhattacharjee

....for the State.

Affidavit-of-service filed on behalf of the
petitioner is taken on record.

Three petitioners are before this Court out
of whom two are teaching staff and one is non-
teaching staff.

It has been submitted by the learned
advocate representing the petitioners that they are
aggrieved relating to holding election under
teaching and non-teaching category.

According to the petitioners there were
procedural improprieties and the election was not
held in terms of the Election Procedure.

It is also submitted that though
Management of Recognized Non-Government
Institutions (Aided and Unaided) Rules, 1969 may

not directly apply in case of the petitioners' school since the school is governed by the Management of Sponsored Institutions (Secondary) Rules, 1972 as amended from time to time but in the same breath provision as contained under Rule 6 of 1972 Rules has been relied upon on behalf of the petitioners to demonstrate before this Court that the representatives of teaching and non-teaching staff of the school is required to be elected following the same procedure as laid down under the Management of Recognized Non-Government Institutions (Aided and Unaided) Rules, 1969. Therefore, according to the petitioners procedure for holding election shall squarely apply in the presently case.

Respondents are represented by learned advocates.

The learned advocates representing the school authority submits that though the election under teaching and non-teaching category was scheduled on 9th December, 2022 but for unavoidable reasons election had to be deferred and it was held on 13th Mach, 2023.

Court finds substance in the submissions made on behalf of the petitioners that Rule 6 of 1972 Rules empowers aggrieved candidates to

approach the President of Board by raising election dispute.

Having considered the submissions made on behalf of the parties, it appears that the petitioners have raised an election dispute before the President, West Bengal Board of Secondary Education being respondent no.5 by lodging a complaint on 3rd March, 2023 but on perusal of the writ petition it does not appear that any further complaint was lodged after 13th March, 2023 when ultimately election was held.

Therefore, leave is granted to the petitioners to raise election dispute before the respondent no. 5 by fortnight from date taking into consideration the fact that the election was held on 13th March, 2023.

If such election dispute is raised before the respondent no.5 within the aforesaid time the respondent no.5 shall decide the election dispute by eight weeks from the date of receipt of complaint after granting opportunity of hearing to one of the petitioners or one representative of the petitioners and the representative of the school authority.

The respondent no.5 shall pass a reasoned decision and same shall be communicated to the parties by two weeks thereafter.

Accordingly, the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)