

08
08.04.2024
AGM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

W.P.A 16630 of 2023

**Md. Rashidul Islam
-versus
The State of West Bengal & Ors.**

**Mr. Samim Ahammed,
Ms. Saloni Bhattacharyya,
Ms. Gulsanwara Pervin.
...For the Petitioner.**

**Mr. Sirsanya Bandopadhyay.
... For the State.**

**Ms. Sonal Sinha.
Ms. Shabnam Farooqui.
Ms. Srabasti Barai.
...For the State
Election Commission.**

**Ms. Anjana Mehebub.
...For the Respondent no. 5.**

The petitioner contested the Panchayat General Elections, 2023 and lost by 9 votes.

He alleges manipulation in the result declared by the Counting Officer.

The State Election Commission has filed a report annexing a copy of the communication made by the Panchayat Returning Officer and the Block Development Officer addressed to the District Panchayat Election Officer and the District Magistrate, North 24 Parganas on 28th July, 2023.

The communication mentions that in polling station No. 151 (Chakla VIII-8 of Chakla Gram Panchayat), the total number of ballot papers received was 890, the ballot papers unused were 107. 50 ballot papers were reported to be missing by the

Presiding Officer being serial nos. 501 to 550. The total number of ballot papers was found as 783.

Votes for the polling station were counted and it was found that the total number of ballot papers was 810 and the rejected ballot papers were 16. The total number of ballot papers found in the ballot box was 826.

The figures mentioned above clearly indicate that there is a mismatch with regard to total number of ballot papers received, used, missing and the total number of ballot papers found inside the ballot box.

If the number of ballot papers which were missing is added to the number of ballot papers found in the ballot box, then the figure will be more than the total number of ballot papers received.

From the above the allegation of the petitioner that there has been manipulation in the figures mentioned in Form No. 21 and 23 apparently appears to be correct.

The State Election Commission in such a situation is required to take a decision with regard to cancellation of the election certificate issued in favour of the winning candidate as it is evident that the figures mentioned in the final result sheet is incorrect.

The State Election Commission is directed to take a decision in the matter strictly in accordance with law relying upon the report mentioned hereinabove after giving reasonable opportunity of hearing to all the necessary parties at the earliest but positively by 31st July, 2024. Necessary remedial measures shall be taken by the Commission.

The writ petition stands disposed of.

Urgent certified copy of this order, if applied for, be supplied to the parties expeditiously, on compliance of usual legal formalities.

(Amrita Sinha, J.)