

Sl. No.153
19.12.2024
Suman
Ct. 15

WPA 26533 of 2024

Alibuddin Khan and Ors.
Vs.
The State of West Bengal and Ors.

Ms. Gargi Roy
Ms. Salma Sultana Shah
Mr. Sani Hossain
..for the petitioners

Mr. P. K. Roy, Sr. Adv.
Mr. Ankit Sureka
Mr. Biplab Das
For Registrar (Co-operative Society)

Mr. Srijan Nayak
Ms. Rituparna Maitra
..for Co-operative Election Commission

Mr. Dipanjan Dutta
Ms. Sabnam De Bardhan
Mr. Rajsekhar Basu
..for the State

The primary allegation of the writ petitioners, raised through a supplementary affidavit, is that eight candidates were allowed to contest the election of Dompukur Samabay Krishi Unnayan Samity Ltd. without being allotted any symbol. According to the petitioners, this action by the Co-operative Election Commission contravenes Regulation 3(3)(d) of the West Bengal Co-operative Election Commission Regulations, 2012.

Mr. Srijan Nayak, learned advocate representing the Co-operative Election Commission, has produced a copy of a resolution adopted by the members of the Co-operative Society in the presence of the Assistant Returning Officer. This resolution suggests that some members of the Society consented to contest the election without a symbol, while others expressed a preference to contest with a symbol. Accordingly, symbols were allotted only to the candidates who requested for the same.

Mr. Nayak has also referred to an order dated October 5, 2024, passed in WPA 25152 of 2024, which was filed by the present writ petitioners. He submits that in the earlier writ petition, the petitioners raised various allegations regarding the conduct of the election, and the Court accordingly passed the necessary orders. However, the issue of non-allotment of symbols was not raised in that petition. Mr. Nayak further states that the election was conducted on October 6, 2024, and although the petitioners subsequently made several representations to various authorities, nothing was said regarding the non-allotment of symbols to the contesting candidates.

Mr. Nayak has additionally relied on Rule 18 of the West Bengal Co-operative Election Commission Rules, 2012, in conjunction with Rule 40(14) of the West Bengal Co-operative Societies Rules, 2011, to

argue that under the Co-operative Societies Rules, a candidate may be permitted to contest an election without being allotted a symbol.

The learned advocate for the petitioners, however, disputes the resolution dated September 25, 2024, asserting that it is a forged document. She contends that the petitioners did not participate in the said meeting.

Mr. Dipanjan Dutta, learned advocate for the State, submits that the directions issued on October 5, 2024, have been duly complied with by the State.

In my view, disputed facts involved in this case are not suitable for determination in writ jurisdiction. The petitioners may avail the alternative remedy available to them to raise the election dispute under Regulation 35(1) of the West Bengal Co-operative Election Commission Regulations, 2012 in accordance with the law, should they be so entitled.

Accordingly, **WPA 26533 of 2024** is disposed of.

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

(Kausik Chanda, J.)