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18-11-2024
AKG
Ct. 15

WPA 27406 of 2024
Bani Chakraborty & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Samim Ahammed, Mr. Arka Maiti, Ms. Gulsanwara Pervin, Mr. Enamul Islam	...for the Petitioners
Mr. Srijan Nayak, Ms. Rituparna Maitra	...for Respondent No.3
Mr. Ankit Surekha, Mr. Biplab Das, Mr. Partha Sarathi Pal	...for Respondent No. 2
Mr. Manas Kr. Das	...for Respondent No. 8
Mr. Sirsanya Bandopadhyay, Mr. Ritesh Kr. Ganguly	...for the State

Let the report filed by the officer-in-charge, Durgapur Police Station be kept with the records. A copy of the said report has been made over to the learned advocate appearing for the petitioners.

It is the grievance of the petitioners that they have not been allowed to submit their nomination forms for the election of Durgapur Mahila Cooperative Bank Ltd. The petitioners submit that some men and agents of the ruling political party prevented them from submitting their nomination papers. The petitioners also submit that the final list of valid candidates is

scheduled to be published today and the petitioners should be allowed to submit their nomination forms.

The facts, as alleged by the petitioners have been disputed by the State. The report filed by the State suggests that on November 12, 2024, the aspiring candidates stood in the queue to file their nominations. However, the petitioners demanded that they had to be escorted to the venue for filing the nomination bypassing the queue. The police requested them to stand in the queue, but they kept on demanding that they had to be escorted to the venue without standing in the queue. The police declined such requests.

Mr. Samim Ahammed, learned advocate and Mr. Arka Maiti, learned advocate appearing for the petitioners submit that the impartial role of election commission is imperative in conducting an election. In support of such submission, reliance has been placed upon the judgment reported at **(2023) 6 SCC 161 (Anoop Barnwal Vs. Union of India (Election Commission Appointments))**.

It has been submitted that for the relevant election, no political parties filed their nominations. The mention of the petitioners in the police report as CPIM party candidates shows the vindictive and bias attitude of the police.

Mr. Srijan Nayak, learned advocate, on the other hand, has placed reliance upon Rules 14(7) (i), 14(7) (iii) and 14 (7) (iv) (b) of the West Bengal Co-operative Societies Rules, 2011, to argue that it was open for the petitioners to submit their nomination papers by registered post. The petitioners never alleged anything before the election officers entrusted to conduct the election. The election rules provide for a specific time for submission of nomination paper. Therefore, the petitioners should not be allowed to submit the nomination papers at this belated stage.

Whether the petitioners were prevented from filing their nomination papers is a disputed question of facts. The police report disputes the assertion of the writ petitioners. Such a dispute can be decided only after taking evidence. Importantly, the petitioners have failed to produce any contemporaneous documents to show that they have approached the Election Commission after being prevented from filing their nomination papers. The petitioners have relied upon some complaints addressed to the relevant Sub-Divisional Officer. It does not appear such complaints were received by the said Sub-Divisional Officer.

In the aforesaid facts, the question of biasness of the election commission does not arise. The petitioners

also did not make any allegation against the election commission. Therefore, the reliance on the judgment delivered in **Anoop Barnwal (case)** is misplaced.

In the aforesaid facts, this Court is not in a position to entertain this writ petition.

Accordingly, **WPA 27406 of 2024** is dismissed.

Needless to clarify that the dismissal of the writ petition shall not prevent the petitioners to raise any election dispute in accordance with law.

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.)