

Item No.225

23.02.2024
Ct-24

In the High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

WPA 25070 of 2023
with
IA No. CAN-1/2024
with

WPA 26843 of 2023
Ashis Baran Sarkar & Ors.

v.

The Commissioner, Co-operative Election Commission &
Ors.

With

WPA 27464 of 2023

Badkulla Anchal Large-Sized Cooperative
Agricultural Credit Society Ltd.

v.

The Commissioner, Co-operative Election Commission &
Ors.

Mr. Uday Sankar Chattopadhyay
Mr. Suman Sankar Chatterjee
Mr. Soumita Shaw
Mr. Trisha Rakshit
... for the petitioner.

Mr. Deepnath Roy Chowdhury
Mr. Vijay Verma
... for the Board of Administrator.

Mr. Kamal Krishna Pathak
Mr. Harish Chandra Talwar
... for the addition of party.

Mr. P.K. Roy
Mr. Joydeep Roy
... for the Cooperative Election
Commission.

Mr. Amal Kumar Sen, AGP
Ms. Sahina Sumi
... for the State.

WPA 25070 of 2023

In view of the subsequent development that has taken place, the cause of action to file the instant writ petition does not subsist at present.

In view of the above, there is no requirement of passing any order in the instant writ petition. The same stands disposed of.

In view of disposal of the writ petition, the connected application also stands disposed of.

Affidavit-in-opposition filed to the application is taken on record.

WPA 26843 of 2023

with

WPA 27464 of 2023

The order passed by the Cooperative Election Commission upon adjudication of the election dispute in respect of the election of the Badkulla Anchal Large-Sized Cooperative Agricultural Credit Society Limited is under challenge in the instant writ petition.

The petitioners raise several issues with regard to the order passed by the Election Commission. One of the issues is that the final voter's list was defective. The list contained the names of several dead members.

It appears from the documents annexed to the writ petition that objection was filed for correction of the voter's list within the time limit as specified in the election schedule. The said objection was not considered and election was held on the defective voter's list.

The petitioners challenged the result of election by raising an election dispute. The Election Commission adjudicated the said dispute and passed order which is impugned in the present writ petition.

The petitioners contend that all the issues were raised in the election dispute that was filed before the Election Commission. On a perusal of the impugned order it appears that the Commission did not mention a word about the incorporation of the names of the members who had expired. On the contrary the voter's list was held to be valid. The reason for not accepting the submission of the petitioners is not reflected in the impugned order.

The impugned order is a very cryptic and non reasoned one. There is no discussion with regard to the contentions raised by the petitioners in the election dispute filed before the Commission. The same appears to have been passed in a very slip shod manner.

In view of the above, the impugned order of the Election Commission is liable to be set aside and is, accordingly, set aside.

The Election Commission is directed to decide the issue afresh after giving reasonable opportunity of hearing to all the necessary parties and to pass a reasoned order dealing with the issues raised by the petitioners in the election dispute.

The adjudication shall be made at the earliest but positively within a period of four weeks from the date of communication of this order.

Till the Election Commission decides the issue finally, the Board of Administrators which is holding the field shall continue.

Both the writ petitions stand disposed of.

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

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(Amrita Sinha, J.)