

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Before:

The Hon'ble Mr. Justice Jay Sengupta

WPA 812 of 2024

Arpita Sarkar

Vs.

The State of West Bengal & Ors.

For the Petitioner	:	Mr. Ronit Kr. Jha, Mr. Bishwa Raj Pharwal, Mr. Sapan Kr Ram.
For the State	:	Mr. Subir Kumar Saha Id.AGP., Mr. Pradip Sarkar.
For the Election Commission Of India	:	Mr. Anuran Samanta
Heard on	:	24.07.2024
Judgement on	:	24.07.2024

Jay Sengupta, J. :

1. This is an application praying for a direction upon the respondent authorities to forthwith dispose of the representation dated 04.12.2023 by passing necessary orders.
2. Affidavit of service filed on behalf of the petitioner is taken on record.

3. Learned Counsel appearing on behalf of the petitioner submits as follows. The petitioner had made a representation on 04.12.2023 before the concerned Electoral authorities alleging that one Santana Das alias Santa Das has registered her name fraudulently as a voter in two different places. The said application was not considered properly. As would appear from the report submitted by the respondent authorities on the earlier occasion, only the name of the candidate was deleted from one of the places and retained in the other. But, no step was taken in terms of Section 31 of the Representation of Peoples Act, 1950. No FIR was lodged against her. The said Santana Das was falsely claiming to be the wife of the petitioner deceased father.

4. Learned counsel appearing on behalf of the respondent no.2 denies the allegations and submits as follows. First, this is a case of nonjoinder of parties as the said Santana Das has not been made a respondent. Secondly, the representation of the petitioner has been duly considered. An enquiry was made consequent to which the name of the said Santana Das was deleted from the Electoral Rolls at one place and retained with the other. Nothing came out that there was a false declaration by the candidate, so no other steps were taken in terms of the Representation of People's Act, 1950.

5. First, this is indeed a case of nonjoinder of parties. As the concerned voter and citizen, Santana Das has not been made a party here against whom a

complaint was made by the petitioner and her name was deleted from the Electoral Rolls at one place. However, this could have been cured by granting liberty to add her as a respondent.

6. The second and more important issue is that the representation in question has actually been considered by the respondent authorities. A purported enquiry was done and a serious consequence ensued. The name of the said Santana Das was deleted from the Electoral Rolls at one place. If this is not a consideration of representation, then one wonders what is.

7. It is another thing that the report did not speak about false declaration. So, there was no question of the respondents acting in terms of the Act of 1950 or filing an FIR, for that matter.

8. Therefore, the prime grievance of the petitioner that the representation was not considered is also not correct. Ideally, after coming to know about consideration of the representation, the petitioner ought not to have proceeded with the matter.

9. A proceeding under the electoral laws is hardly an occasion to settle personal scores or establish succession rights as in a civil Court.

10. In view of the above discussions, I do not find any merit in the application.

11. Accordingly, the same is dismissed, however, without any order as to costs.
12. Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)

Sl. 02/NB