

07.11.2025.
Court No.13
Item No. 22
ap

**F.M.A. No. 535 of 2025
With
I.A. No. CAN 1 of 2025**

**Gopa Banerjee & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Krishna Pada Pal.

...For the appellants.

Mr. Srijan Nayak,
Mrs. Rituparna Moitra.

...For the Co-operative Election Commission.

Mr. Swapan Kumar Datta, ld. G.P.
Mr. Dipankar Das Gupta.

...For the State.

Mr. Ankit Sureka,
Mr. Biplob Das.

...For the respondent no.7.

Mr. P.K. Ray, ld. Sr. Advocate,
Mr. Partha Sarathi Pal.

...For the respondent nos.3, 4 & 5.

1. Let Co-operative Election Commission be added as party respondent to the instant proceedings.
2. The challenge in the instant intra court appeal is to an order dated 15th January, 2025 passed by a learned Single Judge of this Court in W.P.A. 16663 of 2021.
3. The writ petitioners sought implementation of an order passed by the West Bengal Co-operative Tribunal dated 10th November, 2023. By the said order, the Tribunal declared that the respondent no.9 was not entitled to become a member of the Society in question.

4. On a plain reading of the text of the impugned order, it does not appear that the propriety of the order of the Tribunal was at all gone into or dealt with by the learned Single Judge.

5. It is a totally different issue as to whether a Writ Court can sit in appeal over an appeal passed by a lawfully constituted Tribunal under the Statute.

6. Be that as it may, since perversity and violation of principles of natural justice and the provisions of the Statute are grounds for interference, the learned Single Judge ought to have considered the same.

7. Mr. Sureka, learned Counsel appearing for the Society and Mr. Nayak, learned Counsel appearing for the Co-operative Election Commission submit that since after the order passed by this Hon'ble Court in other proceedings, there is a regular Board functioning on the Society and the said Board has to be heard.

8. The respondent no.9 who would be prejudiced by the impugned order of the Tribunal, is not represented before this Court.

9. Mr. Datta, learned Government Pleader appearing for the State makes submissions similar to that of the other respondents.

10. Having regard to the above, this Court is inclined to set aside the impugned order and direct the writ petition ought to be considered on its merits afresh by the learned Single Judge of this Court. The

writ petition is, therefore, restored to its file and number before the learned Single Judge of this Court.

11. Let fresh notice be served by the appellant/writ petitioner to all the unrepresented respondents along with a copy of this order.

12. The parties shall be at liberty to mention the writ petition for consideration afresh before the learned Single Judge of this Court.

13. With the aforesaid observations, F.M.A. 535 of 2025 is allowed and disposed of.

14. In view of disposal of the appeal itself, the connected application being CAN 1 of 2025 is also disposed of.

15. There will be no order as to costs.

16. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Rai Chattopadhyay, J.)