

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 02.12.2025

DELIVERED ON: 12.12.2025

PRESENT:

THE HON'BLE MR. JUSTICE REETOBROTO KUMAR MITRA

WPA NO. 14994 OF 2025

SAIDUL MOLLA AND ANR.

- VERSUS -

THE STATE OF WEST BENGAL AND ORS.

Appearance:

Mr. Sauradeep Dutta.

Mr. Rajdeep Bhattacharya.

Mr. Himadree Ghosh.

..... for the Petitioners

Mr. Pradeep Kumar Roy, Sr. Adv.

Mr. Partha Sarathi Pal.

Mr. Asit Dutta.

..... for the respondents no. 2, 4 & 5

Mr. Debabrata Saha Roy, Sr. Adv.

Mr. Neil Basu.

Mr. Sankha Biswas.

Mr. Aridipta Paul.

..... for the added respondents

Mr. Srijan Nayak.

Ms. Rituparna Maitra.

..... for Co-operative Election Commission

Reetobroto Kumar Mitra, J.:

1. The petitioners challenge the election process undertaken by the respondent authorities, particularly the respondent nos. 2 to 5 and the respondent no. 6, as well as the notification of June 20th, 2025 and consequentially seek fresh notifications for conducting the election of the respondent no. 6.
2. The petitioners are members of the Piyasara Station Paty Samabay Krishi Unnayan Samity Limited (hereinafter the Samity, being the respondent no. 6). The petitioners allege that the Assistant Returning Officer (respondent no. 7) of the said Samity on May 21st, 2025 published a draft voter list, notifying all members of the Samity in respect thereof.

3. The respondent no. 7 published a schedule for the election of the board of directors of the Samity on June 4th, 2025.
4. As it appears from the schedule, the nomination forms for the elections were to be distributed and submitted between 12 PM on June 9th, 2025, and concluding at 3 PM on June 10th, 2025. The scrutiny of the nomination forms was scheduled for June 12th, 2025, and the list of valid nominees to be published on the same day. The list of valid candidates would be published on June 13th, 2025, and the polls were to be held on July 13th, 2025, from 11 AM to 3 PM, followed by the counting of votes and declaration of results on that same day.
5. The petitioners' further case is that they found from the notification of June 4th, 2025 that the venues for the distribution and the filing of the nomination papers were separate. In fact the filing of nomination papers would be at Tarakeswar Thana Samabay Krishi Biplanan Samity, Tarakeswar which is almost 12 KM away from the office of the Samity. These two samities, namely respondent no. 6 and the Tarakeswar Thana Samabay, are not linked to each other and fall within different jurisdictional Registrars.

6. The petitioners allege that they had tried to submit their nomination forms at Tarakeswar Thana Samabay Krishi Bipanan Samity when they were stopped by the contesting group members and were not allowed to file their respective nomination papers. Thus, finding no alternative, the petitioners issued a complaint/legal notice on June 9th, 2025 to the respondent no. 4.
7. The petitioners, without any alternative, proceeded to file their nomination by electronic mail to the Co-operation Directorate, Hooghly Range Office on June 10th, 2025.
8. The petitioners allege that they had been forcibly stopped from filing their nominations and threatened by the contesting group members. Furthermore, even though they had approached the police authorities, no assistance was extended to them.
9. The petitioners lodged a complaint with the Joint Registrar of Cooperative Societies (hereinafter the JRCS) who was the Returning Officer of the concerned district regarding the nomination schedule. Pursuant to this complaint, the JRCS had written to the West Bengal Cooperative Election Commission

seeking guidance as to how and in what manner the complaint of the petitioners was to be dealt with.

10. In response to the email of June 9th, 2025 from the JRCS, the Secretary of the Election Commission issued his letter of June 11th, 2025 with certain directions to the JRCS. The directions of June 11th, 2025 may be summarised as under:

- a. The JRCS was requested to fix up a particular date only for issuance and submission of nomination papers.
- b. Such nomination papers would be issued and submitted at the office of the captioned society.
- c. The matter along with necessary change in the election schedule must be notified afresh.
- d. The number of nominations will be considered of the captioned societies in addition to the nominations submitted earlier.

11. The letter which contains the directions of June 11th, 2025 is not denied nor its content disputed.

12. The Secretary proceeded to issue a letter explaining the letter of June 11th, 2025 and indeed withdrawing the same by a letter of June 18th, 2025. The Secretary contended that the advice of June 11th, 2025 was issued after expiry of the scheduled date of submission of nomination forms, which was "overlooked". Thus, he felt that the directions/advice of June 11th, 2025 need not be given effect. However, in the interregnum period between June 11th, 2025 and June 18th, 2025, the election schedule had been modified.
13. It is in these circumstances that the writ petition was filed before this Hon'ble Court on July 3rd, 2025. On July 9th, 2025, the petitioners obtained an ad interim order staying the election, which was fixed for July 13th, 2025. By this order, the respondent nos. 3 and 7 were directed to file detailed reports explaining the circumstances under which the peculiar procedure had been adopted. Such reports have since been duly filed. Consequently, the election process has not crystallized into any final result. I have been informed at the time of hearing by the learned counsel for the parties that although the order of July 9th, 2025 was challenged in appeal, the appellate court did not interfere with it and the order was sustained.

14. The facts aforestated are not in dispute. There are a few instances of factual import, where the parties are not ad idem. I shall refer to such instances in the course of this discussion.
15. Mr. Sauradeep Dutta, learned Advocate appearing for the petitioners has made out a rather simple case which may be summarised as follows;
- a. There is no explanation in the notification or otherwise of June 4th, 2025 as to why the venue of election, distribution of nomination forms and submission thereof were different particularly the venue for submission of nomination forms. In fact, he has elucidated that the venue fixed for such submission is at a place approximately 12 KM away from the venue of election and bears no justification as to why such place was fixed.
 - b. On June 9th, 2025, having been prevented from submitting their nomination forms, the petitioners had approached the respondent no. 4 challenging the mode and manner in which the election was being conducted. Pursuant to such complaint, the respondent no. 5 had by his email of June 9th,

2025 sought for guidance from the Election Commission. Pursuant to the email of the respondent no. 5, the respondent no. 3 issued a memo on June 11th, 2025 being Memo No. 345-CEC/IV-01/2025 directing the respondent no. 5 to cause necessary change in the election schedule and to notify the same afresh and also directing that the number of nominations would be considered of the captioned societies, which includes the respondent no. 6 herein.

- c. The petitioners state that pursuant to the aforesaid memo the entire process was kept in abeyance till petitioners came to learn on June 20th, 2025 that by a fresh memo dated June 18th, 2025, bearing Memo No. 364-CEC/IV-01/2025 the respondent no. 3 had withdrawn the earlier memo on June 11th, 2025 on the pretext that he had overlooked that the advice was sought for after expiry of the schedule date of submission of nomination. Thus, the said earlier notification of June 11th, 2025 was effectively withdrawn. It is this withdrawal on June 18th, 2025, which the petitioners have challenged.

- d. The petitioners have further argued that in the report called for by this Hon'ble Court from the respondent no. 3, which has been filed by way of an affidavit, the same stand has been reiterated that the earlier schedule had been overlooked by the respondent no. 3 while issuing his memo dated June 11th, 2025. Additionally the respondent no. 3 in such report has stated that he advised change of the election schedule to proceed with the election smoothly to enable all valid voters to get a fair chance of participation in the election.
- e. The fixing of the venue at a place 12 KM away from the election venue is not only unjust and unfair but is bereft of any reasons, especially so, when the venue selected for submitting the nomination form is at a place which has no connection with the Society (respondent no. 6) or its functioning and indeed at a place controlled by the members of the opposing group, which facilitated and facilitates them to obstruct any person, the petitioners herein to submit their nomination forms and thereby participate in the election process. Pursuant to the memo of June 18th, 2025 the scrutiny of the nomination papers as well as publication of list of valid nomination was fixed on June 25th, 2025.

16. Mr. Debabrata Saha Roy, learned senior advocate appearing for the added respondent nos. 9 to 14 has also made his submission which may be summarised as under:

- a. The collection and filing of the nomination forms were from the same venue and if the petitioners could collect the form, there is no reason why they would not submit the same at such venue. In fact there is no averment in the petition or in any of the complaints by the petitioners that they were not permitted to collect the nomination forms.
- b. The petitioners in their complaint of June 9th, 2025 did not make a single allegation that they had been obstructed or stopped from submitting the nomination forms.
- c. The Writ Petition was filed at a rather belated stage, only on July 3rd, 2025, clearly evincing the intention of the petitioners to stall the electoral process which was under way.
- d. The election process has also been completed and since there are only nine nominations for the nine posts, the election is a

mere idle formality and nothing remains other than the formal declaration of his clients (added respondents), as elected members of the board of directors of the Samity.

- e. He has cited a decision reported in 2000 (8) SCC 216 to establish that the Courts must be very circumspect and act with caution while entertaining any election dispute and guard against any attempt at retarding, interpreting, protracting or stalling of the election proceedings. The idea is to ensure that the persons challenging the election process do not subterfuge any hidden agenda.

17. Mr. Srijan Nayak, learned advocate appearing for the respondent nos. 3, 4, 5 and 7 has also made his submission, which are as under:-

- a. The respondent no. 3 while issuing the order by the Memo No. 345-CEC/IV-01/2025 dated June 11th, 2025 had overlooked the fact that the election timelines had already been fixed as per a duly published schedule and that the time for submission of the nomination forms by prospective candidates had also lapsed.

- b. Immediately upon coming to learn such fact the respondent no. 3 had withdrawn the order of June 11th, 2025 on June 18th, 2025 by Memo No. 364-CEC/IV-01/2025.
- c. He has relied upon several decisions. The unreported decisions are MAT 339 of 2017, dated April 10th, 2017, WPA (P) 570 of 2022 dated June 24th, 2024, and WPA 8928 of 2025 dated April 24th, 2025. He places reliance on a decision reported in (2016) 4 SCC 429. The sum and substance of all the aforesaid decisions is that the Courts should be circumspect while dealing with a matter in which the election process has started. In fact, the decision MAT 339 of 2017, dated April 10th, 2017 has also held that the choice of venue is the prerogative of the Assistant Returning Officer and cannot be questioned by parties in any manner whatsoever.
18. I have given anxious consideration to the submissions made by learned counsel appearing for the parties and the decisions relied upon by them. I have also considered the records.
19. Three issues are of primary importance in this matter.

20. First issue relates to the violation of the right of the petitioners.
21. Second, if there is a violation of a right, whether any of the authorities can be foisted with the liability of such violation, resulting in the issuance of prerogative writs of this Hon'ble Court.
22. Third, whether in the process of upholding the rights of the petitioners, there would be any violation of a due process of law undertaken by the authorities and consequently whether any of the private respondents would suffer or be deprived of their rights, which they have or that may have accrued.
23. Adverting to the first issue, the petitioners argued that there are two-fold violations of their rights.
24. The right being violated according to the petitioner, is their right to participate in a free and fair election.
25. First relates to the venue for submission of forms being fixed at a place 12 KM away from the office of the society and indeed in a

completely separate society, that is Tarakeswar Thana Samabay Krishi Bipanan Samity, Tarakeswar.

26. Second, the election schedule published on June 4th, 2025, which was directed/advised by the Secretary of the Election Commission to be altered/modified in terms of the letter of June 11th, 2025, and the roll back of the direction contained in the letter of June 11th, 2025 on June 18th, 2025.
27. The election process has to be fair and transparent, enabling all eligible persons to participate. The petitioners, as members of the society and being otherwise qualified, have a right to participate in a free and fair election. They are entitled to submit their nomination forms within the time stipulated in the election schedule published by the respondent authorities.
28. The curtailment of a right or violation thereof can only happen if the petitioners have been deliberately stopped or have not been sufficiently aided by the authorities to participate in this electoral process. In the present case, the petitioners contended that the fixation of venue for submission of nomination forms by the respondent no. 4 is at a place which is 12 KM away from the

election venue. There is also a passing reference that the petitioners were stopped or obstructed by the private respondents from submitting the nomination forms with the concerned authorities within the time stipulated. The knee-jerk reaction to any obstruction, either by the private respondent or any act of commission or omission by the respondent authorities preventing the petitioners from filing their nominations, ought to have been a complaint seeking redressal of such prevention either before the police authority or at least before the election commission. The petitioners' failure to exercise their rights and seek enforcement of their right to submit the nomination form is uncorroborated in the present case. There is no police complaint on record, and the first complaint to the commission is a mere assertion that the petitioners want a free and fair election. It contains no assertion that their right was violated or any plea seeking enforcement of such right. This omission is conspicuous by its absence from the various documents annexed to the petition. Clearly, no such complaint was made.

29. That the petitioners were unable to file their nomination forms is not in dispute as they filed the same through electronic mail, which is impermissible under the statute; it has to be filed in

person. However, there is no certainty that the petitioners were prevented or obstructed from filing such nomination forms as there is insufficient and inadequate evidence to support such allegation leveled by the petitioners. Thus, the only reason that can be culled out from the facts are that the petitioners were unable to file their nomination forms, the venue being fixed at a place which was 12 KM away from the office of the society and at a place which had no connection whatsoever with the society. Thus, the mere inability of the petitioners on account of distance cannot be a ground to come to a conclusion that the petitioners' right had been violated due to any acts of commission and/or omission of the respondent authorities.

30. That the petitioners have not filed their nomination forms is indisputable. However, there is no reason which may be ascribed as a default on the part of the authorities, to show that the petitioners' inability to file the nomination forms, rests on the authorities not performing a duty incumbent on them under any statute.

31. Had the respondent not reacted to the request of the petitioners made on June 9th, 2025, the matter would have rested. The JRCS,

who is also the Returning Officer (R.O.) having regard to the complaint made by the petitioners, sought advice from the commission, to which the Secretary of the Commission responded on June 11th, 2025. By the letter of June 11th, 2025, the Secretary of the Commission advised and or directed the JRCS to fix a date for issuance of nomination papers. It is this letter of June 11th, 2025, by which the Secretary made certain important observations and directions which are set out hereunder:-

- a. He advised for fixation of a particular date for issuance and submission of nomination papers.
- b. This submission of nominations was directed by him to be done at the office of the captioned societies, which includes the society of the petitioners.
- c. He further directed that necessary change in the election schedule must be notified afresh.
- d. He also directed that the number of nominations will be considered of the captioned societies in addition to the nomination submitted earlier.

32. Though a cursory explanation has been sought to be given by the letter of June 18th, 2025, that such directions were passed overlooking the fact that the scheduled date of submission of nomination forms had already expired, it cannot be denied that the Secretary had been apprised of such fact by the JRCS in his email of June 9th, 2025. Thus, the petitioners had a right to participate in the nomination process and submit their forms, under the new schedule as directed by the letter of June 11th, 2025, if it had been adhered to.
33. On the contrary, the Secretary in his report in the form of an affidavit has not only admitted these directions but has also categorically mentioned in paragraph 2(d) that they were made “with the sole intention of ensuring the election process proceeded smoothly so that all voters could get a fair chance to participate.” Thus, it can be safely assumed that the Secretary's stand is that the previous schedule, which he directed to be changed, was such that it would not have given all voters a fair chance. Clearly, there is something amiss.
34. To add fuel to the fire, the JRCS as the Returning Officer at the concerned society by his letter of June 16th, 2025, written to the

Secretary, in no uncertain terms admitted that the entire process in the scheduled published on June 4th, 2025 had been kept in abeyance. In fact, he had urged the Secretary that the persons who had filed their nomination papers physically in respect of three societies including the one in which the petitioners seek to participate had sent a prayer on June 14th, 2025 with the request to publish "final contesting candidate list" at the earliest. Understandably, it was on the basis of this letter of the JRCS, that the Secretary issued his letter on June 18th, 2025 recalling and or rescinding the letter of June 11th, 2025 and thereby reverting back to the situation as under the published schedule in the notification of June 4th, 2025.

35. It is the explanation of the Secretary in the letter of June 18th, 2025, read with the letter from the JRCS to the Secretary on June 16th, 2025, which is a clear indication that there was an attempt by the authorities to restrict the election process. It reveals that the authorities, or at least the Secretary of the Election Commission, felt that the earlier schedule, as published on June 4th, 2025 would not afford reasonable opportunity for all voters to have a fair chance to participate in the election process.

36. Thus, there is a violation of the rights of the petitioners to file their nomination forms, not because the venue of submission of the form was at a place 12 KM away from the office of the society, but because the respondent authorities in their wisdom had decided to alter the election schedule, which was withdrawn subsequently, thereby depriving the petitioners of an opportunity to submit their nomination forms within the extended time. Undeniably the petitioners' right has been violated.
37. The words of import in the third line, "necessary change in the election schedule must be notified afresh," coupled with the final line "the number of nominations will be considered of the captioned society in addition to the nomination submitted earlier" impute knowledge that the schedule of June 4th, 2025 had already yielded prior nominations. That new nominations were to be considered afresh, clearly indicates that the authority had knowledge that time for submission of nomination forms had already expired. Thus, respondent no. 3 cannot be said to have overlooked the fact that nominations had already been submitted, the explanation of "overlooked" is therefore grossly unsatisfactory and leaves a doubt as to the bona fides of the withdrawal. Consequently, there is an infraction, if not of the petitioners'

rights, then certainly of the respondents' duty to discharge their functions as mandated by the statute.

38. Adverting to the second issue, whether the authorities can be foisted with the liability of such violation. It is clear that the petitioners had not taken any steps to register a complaint in so far as their inability to submit the nomination forms was concerned coupled with the allegation that such inability is attributable to the inaction on the part of the police authorities, there is nothing on record to hold that the petitioners were obstructed from filing their nomination forms.
39. The communication dated June 11th, 2025, between the Secretary, Election Commission and the Joint Registrar of Cooperative Societies, by which the Secretary advised necessary changes in the election schedule to be notified afresh and circulated amongst all members of the concerned society, was published by a notice without any Memo number on June 12th, 2025 (page 3 of the report of respondent no. 7) specified the entire process would be kept in abeyance. Hence, this direction of the Secretary was placed in the public domain and offered a renewal of the petitioners' right to file their nomination forms within a period to be notified afresh,

in terms of Memo No. 345-CEC/IV-01/2025 dated June 11th, 2025.

In view thereof, the petitioners were accorded an undeniable right to participate in a free and fair election, as contemplated by the Secretary not only in his communications but also in his report by way of an affidavit.

40. However, it is of grave concern that the election schedule was modified and subsequently withdrawn by the respondent no. 3 (Secretary of the Commission) stating that he had overlooked certain facts. Had the time been extended in terms of the direction of the respondent no. 3, the petitioners would have had an opportunity to submit their nomination forms and could have participated in the process. Thus the withdrawal and recalling of the modification of June 11th, 2025 has foisted a liability on the authorities for violation of the petitioners' right to participate in the electoral process by duly filing their nomination forms.

41. The mere fixation of a venue is the prerogative of respondent no. 7, as held by a Division Bench of this Hon'ble Court in MAT 339 of 2017 dated April 10th, 2017. However, the issue still goes a-begging that in his direction of June 11th, 2025, the respondent no.

3 had directed the respondent no. 7 to change the venue and make it the office of the concerned cooperative society.

42. The third issue as to whether the enforcement of the rights of the petitioners would in any manner cause any prejudice to the private respondent herein has been formulated since Mr. Saha Roy, learned Senior Advocate appearing for the private respondent, has argued that the petitioners have already been elected and any alteration would cause a severe violation of rights which have accrued in their favour. Mr. Saha Roy's submission has been that the private respondents, being the persons who have filed the nomination, are on par with the number of vacancies in the society. Thus, after the verification of the nomination forms, they have been, "practically elected".

43. However, such fact was not brought to the notice of this Hon'ble Court while passing the interim order of July 9th, 2025 nor to the notice of the Appeal Court nor before any other Hon'ble Court that had been taking up this matter at the ad interim and interim stage.

44. This submission, that they were already elected on June 13th, 2025, is based on the premise that the number of candidates who had filed their nominations were at par with the vacancies. It is contradicted by the published schedule, which expressly specifies the date for the declaration of the result as July 13th, 2025. Mr. Saha Roy's argument that the voting was a mere formality and therefore the election was effectively concluded on June 13th cannot override this scheduled and formal date for the result.
45. Even if the number of candidates were on par with the vacancies, the schedule cannot be altered and or modified by contesting candidates to claim that they had been elected even before the declaration of the result. Taking the best case of the private respondents, that the election was a mere formality, July 13th was the date for both counting of votes and declaration of result. Thus, the interim order of July 9th staying the election process was such that there is no declaration of result as yet and the question of private respondent being the successful candidates and thereby claiming, as such, to be the elected candidate is rather far-fetched and unacceptable. There is no right that has accrued in favour of the private respondents merely upon submission of nomination forms. Thus, there cannot be violation of any right of the private

respondent if the election is rescheduled by the Commission in terms with the advice of the Secretary. Thus, the third issue is answered accordingly.

46. The election process, which commenced on June 4th, 2025, was rolled back on June 11th, 2025 and was once again restored to the original schedule of June 4th, 2025 by the recall of the order dated June 11th, 2025. If the private respondents are indeed successful, they should have no reason to fear a fair contest arising from the petitioners' participation in the electoral process.
47. The petitioners came to know of the roll-back of the directions contained in the Memo of June 11th, 2025, from the notification of June 20th, 2025. The petitioners have filed the writ petition on July 3rd, 2025. Thus, the petitioners cannot be held to have approached this Hon'ble Court, challenging the electoral process at a belated stage. The petitioners have approached this Court at the earliest available opportunity.
48. I am not oblivious to the fact that once the election process is underway, the Court should be circumspect in stalling the election process. The decision relied upon by Mr. Saha Roy is a well-

accepted proposition that the Court must be very circumspect and act with caution while entertaining any election dispute. It is the Court's duty to guard against any attempt at retarding, interpreting, protracting or stalling the election proceeding. However, it is also a well-accepted proposition and finds mention in the very same decision 2000 (8) SCC 216 that action taken or order issued by the Election Commission is open to judicial review on the well settled parameters where decisions of such statutory bodies are mala fide or involve arbitrary exercise of powers, which have caused breach of law and violated the rights of persons.

49. I have also considered decisions rendered by a Co-ordinate bench of this court in WPA 8928 of 2025 (Sanjay Ghoshal @ Sanjay Ghosal & Ors. vs. The State of West Bengal & Ors.) dated April 24th, 2025 as well as that of a Division bench in WPA (P) 570 of 2022 (Jitendra Nath Mallick & Ors. vs. The State of West Bengal & Ors.) dated June 24th, 2024 where it was held in the facts of the case that the mere presence of a dead voter in the voter list does not mean that the complaint before the commission had not been considered. The facts are entirely different in this case.

50. In its decision in Union Territory of Ladakh and Ors. vs. Jammu and Kashmir National Conference and Another, delivered on September 6th, 2023 and reported in 2023 SCC OnLine SC 1140, the Supreme Court has categorically held that under normal circumstances Courts are loath to interfere once an election process has commenced. However, the lurking danger of authorities using their electoral powers arbitrarily, and thereafter becoming complacent or overconfident that Courts will not intervene, constrains the Court to consider such broader aspects.
51. In the present case, the issue that has arisen clearly indicates an unjust executive action and an attempt to disturb the level playing field among candidates without any justification or intelligible basis. Guided by the principle laid down in Union Territory of Ladakh (supra), the Court is therefore duty-bound to step in.
52. Further, it is of importance to note here that the election process had been stayed on July 9th, 2025 by a Coordinate Bench of this Hon'ble Court and has been sustained by the Hon'ble Court of Appeal and such stay is presently subsisting. In view of the unjust executive action and arbitrariness of the respondent authorities in withdrawing and or rescinding the direction of June 11th, 2025 by

the respondent no. 3, and re-establishing the schedule of June 4th, 2025, the election schedule of June 4th, 2025 is set aside.

53. Thus, I direct the respondent No. 5 to publish a fresh election schedule by December 20th, 2025 and conclude the process of election by January 31st, 2026.
54. The Superintendent of Police, Hooghly Rural District, is directed to ensure that the election of the respondent cooperative society is conducted peacefully, without any untoward incidents and that all participants have free and undisturbed access to collect and submit nomination forms and to cast their votes.
55. With the aforestated observations and directions, I allow the writ petition.
56. An urgent photostat-certified copy of this order, if applied for, should be made available to the parties upon compliance with the requisite formalities.

(Reetobroto Kumar Mitra, J.)