

18-07-2025
Item No.2
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.16095 of 2025
Narendra Kumar Gupta

-vs-

The State of West Bengal & Ors.

Mr. Dhiraj Trivedi, sr. adv.
Mr. Kingsuk Mondal, adv.
Mr. Pradip Kumar Kundu, adv.
Mr. Partha Sarathi Mondal, adv....for the petitioner

Mr. Dipanjan Dutta, adv.
Mr. Diptendu Narayan Banerjee, adv.
...for the State

Mr. Kallol Basu, adv.
Mr. Samik Sarkar, adv. ...for respondents no. 4 & 8

1. This writ petitioner is an owner of an apartment in a complex namely Sunrise Tower and he is a suspended member of the Sunrise Tower Apartment Owners' Association.
2. He alleges that he has been suspended from the Association illegally and arbitrarily. Challenging the suspension, the petitioner approached the competent authority under the West Bengal Apartment Ownership Act, 1972 way back in December 2024. The said complaint has not been disposed of.
3. In the meantime, the Sunrise Towers Apartment Owners' Association has declared an election to be conducted on July 20, 2025. The petitioner intended to contest in the election process, but because of his suspension, he was unable to do so. Prayer has been made to restrain the Association from proceeding with the process of election till the objection of the petitioner is finally

disposed of by the competent authority.

4. Learned counsel for the Association denies the allegation of the petitioner. He submits that the petitioner never sought to submit his nomination for contesting the election, and hence the Court ought not to enter into the disputed questions of fact raised by the parties. It is further submitted that there are maintenance dues to be deposited by the petitioner.
5. Learned counsel for the State submits that the objection filed by the petitioner is pending consideration.
6. After hearing the parties, it appears that the objection which was filed by the petitioner way back on December 9, 2024 has not been considered by the authority till date. The authority forwarded the counter allegation made against the petitioner but, for reasons best known, slept over the objection and counter objection for a considerable period of time.
7. The election of the Association is scheduled on July 20, 2025. As the petitioner is a suspended member, he has not been allowed to contest the election and he may not be allowed to cast his vote. The entire election process will stand vitiated, if ultimately the allegations made by the petitioner in his complaint are found to be proper.
8. In view of the above, the competent authority under the West Bengal Apartment Ownership Act, 1972 is directed to consider and dispose of the complaints lodged by the petitioner and the counter complaints lodged by the private parties in accordance with law, after giving reasonable opportunity of hearing to all the necessary parties. The allegation that the election process

has not been legally followed and the issue of suspension of the petitioner shall be decided by the authority.

9. If the competent authority comes to a conclusion that the process of election has not been conducted properly, then necessary remedial measures shall be taken by the authority including setting aside the entire election.
10. A decision shall be taken in the matter at the earliest but positively within a period of thirty days from the date of communication of this order.
11. The fate of the election to be conducted on July 20, 2025 including the election of the thirty-one uncontested members shall abide by the decision to be taken by the competent authority.
12. Learned counsel for the petitioner is directed to forward to the competent authority all the objections/representations filed before the authority at the time of communicating the order of this Court.
13. Learned counsel for the State is also directed to communicate this order to the authority.
14. It is submitted that the twenty-sixth respondent – Narendra Kumar Gupta – has been impleaded wrongly. Let the name of the said respondent be expunged from the array of respondents in the writ petition.
15. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
16. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

