

18-07-2025
Item No.3
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
Appellate Side

WPA No.16193 of 2025

Binod Kumar Shukla

-vs-

The State of West Bengal & Ors.

Mr. Anirban Majumder, adv.
Mr. Aatif Khan Chowdhury, adv.
Mr. Dev Kishore Nawal, 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 & 5

1. This writ petitioner is an owner of an apartment in a complex namely Sunrise Tower and he claims to be the erstwhile president of the Sunrise Tower Apartment Owners' Association.
2. He alleges that as no objection certificate has not been issued by the Association he has not been permitted to participate in the election process of the Association. Challenging the illegal act of the Association, the petitioner approached the competent authority under the West Bengal Apartment Ownership Act, 1972. The said complaint has not been disposed of.
3. 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 non-issuance of the no objection certificate, 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 has not been considered by the authority till date.
7. The election of the Association is scheduled on July 20, 2025. The petitioner 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, if any, 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. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
15. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

