

26.09.2025
Court No.13
Item No.17
AP

**MAT 1660 of 2025
With
CAN 1 of 2025**

**Pradip Bera
Vs.
The State of West Bengal and Ors.**

Mr. Billwadal Bhattacharjee, Senior Advocate
Mr. Sabyasachi Chatterjee
Mr. Subhajit Panja

... For the Appellant.

Mr. Raja Saha
Mr. Sanjay Mukherjee
Ms. B. Roy

... For the Respondent No.6.

Mr. Deebnath Roy Chowdhury
Mr. Vijay Verma
Ms. Puja Banerjee

... For the Respondent Nos.7 to 21.

Mr. Srijan Nayak
Ms. Rituparna Maitra

... For the Cooperative Election Commission.

1. This Court has heard the parties at length. The challenge is thrown to the order passed by the Single Bench dated 16th September, 2025.

2. What transpires clearly is that the pendency of an election dispute with the Cooperative Election Commission need not stall an election process. The decision of the Cooperative Election Commission can be implemented if necessary even after completion of the election process.

3. A large number of proceedings have taken place with regard to the election to Mehanoti Kishan Samabay

Krishi Unnayan Samity Limited. An election programme was announced by the ARO of the concerned range. A draft voter list was published inviting objections. The respondent herein did not file any objection thereto.

4. Instead a writ petition was moved by Sajal Dhani and Ors., who are the defeated candidates in the delegate Election process, alleging that certain dead members and certain ineligible members, namely employees, could not have formed part of the voter list. By an order dated 22nd July, 2025, the writ petition being WPA 15797 of 2025 was disposed of directing the Election Commission to delete the name of dead voters and to make ineligible employee members, whose names featured in the voter list for voting.

5. WPA 19606 of 2025 was thereafter filed by Pradip Kumar Bera and Anr., the persons who succeeded in the election process of delegates urging the Cooperative Election Commission to complete the process of election of Board of Directors of the society.

6. The Single Bench disposed of the writ petition directing the election to the Board of Directors to be completed expeditiously preferably within four weeks from the date of passing of the order. The Single Bench was not apprised of pending election dispute already raised by the respondent Nos.7 to 21. The said respondents were not parties to the writ petition. The

writ petitioners therein were not made parties to the election dispute.

7. Upon coming to know of the election disputes raised before the Cooperative Election Commission, the appellants herein applied before the Commission for being added as parties and so added.

8. The candidates, who lost the delegate election thereafter, filed WPA 21198 of 2025 seeking stay of the further election process and quashing of the delegate elections, inter alia, on the ground that only about 41 delegates were elected whereas there ought to have been 80 delegates in the election process.

9. This contention was on the basis of that the total strength of the members after deleting the names of the deceased employees and also the ineligible employees, the strength of the society would fall below 2000. Along with said writ petition CAN 1 of 2025 was filed in WPA 19606 of 2025 seeking recall of the order dated 26th August, 2025.

10. The Single Bench having considered the writ petition and the application for recall in WPA 19606 of 2025 directed the Cooperative Election Commission to dispose of the election disputes raised by the respondent Nos.7 to 21 and that the election to the Board of Directors would be held only after the disposal of the election dispute.

11. In essence the Single Bench stayed the process of election of Board of Directors pending the election dispute albeit within a time frame. The legality of the order is questioned by the successful delegates on the grounds of law and fact.

12. The first ground urged by Mr. Billwadal Bhattacharjee, learned senior counsel for the appellants is that the pendency of an election dispute cannot stall an election process. The election process should go on notwithstanding election dispute since the order of the Election Commission can be implemented even after an election formally takes place.

13. There is substance in the aforesaid argument. The answer of the counsel for the State as well as private respondents is that since a time frame has been fixed by the Single Bench, the parties are not prejudiced since there was no functional Board since the year 2023. A couple of weeks would not seriously call prejudice to any parties.

14. This Court is of the view that since law on the subject is well settled, the quantum of time within which the election dispute was required to be disposed of by the Single bench cannot be a ground to upset the settled position of law. It is now well-settled that pendency of an election dispute cannot stall an election process. To that

extent on the question of law the order impugned of the learned Single Bench is erroneous.

15. The second question on facts argued by the parties assumes some importance. Since the number of members of the society is a vital guiding point to the number of delegates to be elected by the members, any dispute on the quantum of members may, in fact, affect the entire election itself.

16. The provisions of the West Bengal Cooperative Societies Rule prescribe that when a society has more than 2000 members, the number of delegate is required to be at the ratio of 50 members to one delegate. In the event the number of member is below 2000, the ratio is 25 members to one delegate.

17. Learned counsel for the appellants vehemently submits that respondent Nos.7 to 21 have not raised any disputes against the draft voter list. The ARO in the instant case has not recorded or found any objection and hence the draft voter list was published.

18. Learned counsel for the respondent Nos.7 to 21, however, submits that an objection was, in fact, filed on 10th July, 2025. The objection was, therefore, filed six months after the publication of final voter list in December, 2024.

19. Pursuant to orders dated 22nd July, 2025 (supra), the respondent Nos.7 to 21 raised objections with regard to 17 employee members and five deceased members. The name of the 5 deceased members was deleted by the ARO. The 17 employee members were held to be ineligible to vote.

20. Even assuming the name of 5 deceased members are removed from the voter list comprising of 2009 members, the strength of the members of the society would be 2004. The ineligible 17 employee members would continue to remain as members albeit ineligible to vote.

21. In the backdrop of the above, this Court is of the clear view that the process of election to the Board of Directors of the society could not have been stalled by the Single Bench or deferred until disposal of the election dispute. The election dispute may go on but cannot stall the current election process.

22. In view of the above, the impugned judgement is modified directing the process of election to the Board of Directors of the society and consequent events to take place within 16th October, 2025.

23. ARO shall supervise the above process. Needless to mention that the election of the Board and delegates would abide by the result of the pending election dispute before the Cooperative Election Commission.

24. Time for the Election Commission to conclude and dispose of the disputes shall stand extended as per the convenience and business of the Election Commission.

25. With the aforesaid observation, MAT 1660 of 2025 is disposed of. Consequently all connected pending applications, if any, are also disposed of.

26. There shall be no order as to costs.

27. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)