

20.03.2025
Sl. No. 02
g.b.
Court No.10
265717

WPA 25524 of 2023

Dilwar Hussain & Anr.
-Vs-
The State of West Bengal & Ors.

Mr. Samim Ahammed
Ms. Saloni Bhattacharya
Ms. G. Pervin
.....For the Petitioners
Ms. Sonal Sinha
Ms. S. Farooqui
.....For the State

The writ petition is directed against an order dated 17th August, 2023. Significantly in an earlier round of proceeding by an order dated 26th July, 2023 in WPA 17221 of 2023 a Co-ordinate Bench had directed the State Election Commission to consider and dispose of the complaint filed by the petitioners at the earliest, but positively within a period of ten days from the date of communication of a copy of this order.

The order dated 26th July, 2023 categorically directs the State Election Commission to pass a reasoned order in disposing of the complaint of the petitioners of rigging, violence, booth capturing and several other illegalities as contended in their representation.

Pursuant to the above order, the State Election Commission by an order dated 17th August, 2023 held as follows:

“On careful examination of the papers on record and reports as mentioned above, it appears that the allegations put forward by the petitioner could not be sustained. The enclosures and the reports of the District Magistrate, Uttar Dinajpur, the Additional District Magistrate and the BDO & PRO, Goyalpokher – I have been examined carefully. The documents suggest that the poll process and the counting were followed meticulously. In the present writ petition no relief can be given in favour of the petitioner. The Panchayat Returning Officer is directed to properly preserve the CCTV/video footages and the ballot papers and to produce the same as and when called for.”

It is submitted on behalf of the petitioners that in passing the impugned order there has been no compliance with the above direction dated 26th July, 2023 passed by a Co-ordinate Bench. There are no reasons in the impugned order. The impugned order has been mechanically passed without any application of mind. In passing the impugned order, the State Election Commission had not even adverted to the provisions of the West Bengal Election Act, 2003.

The respondents are represented and submit that the instant writ petition is not maintainable.

In view of the non-compliance with the earlier directions contained in the order dated 26th July, 2023 in

WPA 17221 of 2023, inasmuch as the State Election Commission has provided no reasons in passing the impugned order, the impugned order is unsustainable. There has been no consideration of the grievance of the petitioners. None of the facts that have been referred in nor the relevant provisions of the West Bengal Panchayat Election Act, 2003 have been adverted to or taken into consideration. The impugned order has been passed mechanically and in violation of the principles of natural justice and is set aside.

In view of the above, the matter is remanded back to the Election Commission for reconsideration of the order dated 17 August 2023 and be positively disposed of within a period of 12 weeks from the date of communication of this order.

It is made clear that there has been no adjudication on the merits of the case and all issues are left open to be decided strictly in accordance with law.

The Election Commission is directed to act in terms of the order dated 26 July 2023.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties after completion of all necessary formalities.

(Ravi Krishan Kapur, J.)