

04.12.2025

THURSDAY

Court : MB-24
Item : AD-01
Status : DO
ID : 266312
AR : NANDY

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 26685 OF 2025

PABAN KUMAR JANA

VS.

THE STATE OF WEST BENGAL & ORS.

Mr. Billawadal Bhattacharyya, Sr. Advocate

Mr. Anish Kr. Mukherjee, Advocate

Ms. Megha Datta, Advocate

Mr. Tamoghna Pramanick, Advocate

.....for the Petitioner

Mr. Bibekananda Tripathi, Advocate

Mr. Abdus Salam, Advocate

.....for the State

Mr. Srijan Nayak, Advocate

Ms. Rituparna Maitra, Advocate

.....for the Co-operative Election Commission

Mr. Pradip Kumar Roy, Sr. Advocate

Mr. Ankit Sureka, Advocate

Mr. Biplab Das, Advocate

.....for the Respondent Nos. 3 & 4

1. Supplementary Affidavit as filed by the petitioner is taken on record.
2. The petitioner is aggrieved by the fact that the respondent No. 11, a Co-operative Society, does not have a duly elected Board to manage its affairs. The elections were last held in 2008. Thus, the tenure of the Board of the society, being the respondent No. 11 herein, expired in 2011. The petitioners urged that elections be held at the earliest to manage the affairs of the society being the respondent no.11 herein.
3. Mr. Bhattacharyya further submits that in spite of

specific provision, as contained in Regulation 3(3)(VII) of the West Bengal Co-operative Election Commission Regulations, 2012 (hereinafter referred to as the said Regulation) duties and responsibilities of the Election Commission and its functionaries, have been fairly spelt out. In fact, under Regulation 3(22) of the said Regulation, the expenditure relating to the delegate election of a co-operative society are to be borne by the society itself including the “allowance of the polling personnel.”

4. Mr. Bhattahcharyya submits that his clients are ready and willing to deposit a reasonable cost of the election process, as assessed by the Commission to enable the Commission to conduct a free and fair election at the earliest.
5. Mr. Nayak appearing for the Election Commission has stated that there are 39 Primary Agricultural Credit Co-operative Societies (hereinafter referred to as PACS). The election has been conducted in almost 30 such societies. Of the remaining few, all are facing paucity of funds on account whereof, election could not be held.
6. Mr. Nayak submits that in the event funds can be arranged by the petitioner, the Election Commission is ready and willing to conduct the election within a period of six weeks from the date of the funds being arranged and being duly communicated to the Commission.
7. The only hurdle, as pointed out by Mr. Bhattacharyya is the humongous sum of Rs.80,000/- assessed by the Commission on account of “refreshment cost of polling and

police personnel (approximately 400 heads)” for the respondent No.11.

8. Mr. Bhattacharya submits that the break-up of the costs given by the Election Commission is not only arbitrary but has an additional cost of advertisement and miscellaneous wages and expenses, aggregate whereof is approximately Rs.40,000/-. The cost of refreshment of Polling and Police personnel of approximately 400 heads for a sum of Rs.80,000/-, is without any basis and arbitrary.
9. Mr.Bhattacharyya has placed reliance on a decision of a Co-ordinate Bench of this Hon’ble Court in the case of **Anil Kumar Maity Vs. The State of West Bengal & Ors.**, reported in 2007(2) CHN 124, to buttress his argument that the police costs are preposterous. I respectfully agree with the dictum of this decision.
10. I have heard the parties and perused the record.
11. The duties of the police authorities as enshrined in the Police Act, 1861 and the provisions of the Police Regulation of Bengal, 1943 are well defined and requires no further elucidation.
12. The assessment made by the Commission towards deployment of police personnel appears to be unreasonable and arbitrary. The assessment for deployment of the number of police personnel also seems to be without any basis.
13. In so far as the cost pertaining to refreshment of Polling and Police personnel to be deployed at the site is concerned, the same is set aside.
14. The petitioner is at liberty to approach the Election Commission for any deduction thereof.

The Election Commission will consider the quantum of such costs and intimate the exact amount to the petitioner by 10.12.2025.

15. The petitioner will, however, ensure that adequate refreshment is arranged for the Polling and Police personnel employed at the site.
16. The petitioner will deposit the balance sum by 15.12.2025 after the Commission has intimated the costs on account of advertisement and miscellaneous wages and expenses head by 10.12.2025.
17. Upon deposit of such amount in the account of the respondent No.11, the petitioners will inform the Election Commission or the concerned Returning Officer being the jurisdictional Assistant Registrar of Co-operative Societies, of such deposit.
18. The respondent Nos. 4 to 8 are directed to ensure that election process of respondent No.11 is conducted and completed within a period of six weeks from the date of intimation of such deposit, positively by January 31, 2026.
19. The petitioner will be at liberty to appropriate any balance sum, from the account of the Co-operative Society upon formation of the new Board, in consultation with the new Board members, if there be any such amount, after appropriation towards the election costs.
20. With these afore-stated directions, **WPA 26685 of 2025 is disposed of.**
21. There shall, however, be no order as to costs.
22. This order shall not be treated as a precedence, as it is passed in the peculiar facts and circumstances of this case.

23. Urgent Photostat Certified Copy of this order, if applied for, be given to the petitioner on usual undertaking.

(REETOBROTO KUMAR MITRA, J.)