

29-01-2025
Item No.4
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.30595 of 2024
Shri Simanta Bhattacharjee
-vs-
The State of West Bengal & Ors.

Mr. Atindra Chowdhury, adv. ...for the petitioner

Mr. Dipanjan Datta, sr. Govt. adv.
Mr. Sayan Datta, adv. ...for the State

Mr. Jaydip Kar, sr. adv.
Mr. Soham Banerjee, adv.
Mr. Parashar Baidya, adv. ...for respondents 2 & 3

Mr. Pappu Adhikari, adv. ...for respondent no.4

Mr. Kumaresh Dalal, adv.
Mr. Sukanta Ghosh, adv. ...for respondent no.6

1. The petitioner in this writ petition is aggrieved by the election of the West Bengal Pharmacy Council is being conducted.
2. It has been submitted that the election is not being carried out in a free and fair manner. An objection filed by him before the respondent authorities on December 18, 2024 (Annexure P3, p.18) is yet to be considered.
3. It appears from the submissions made on behalf of both the parties that the election is being conducted in compliance of the order of the Hon'ble Division Bench of this court dated 16th April 2024 in **MAT No.411 of 2021 (West Bengal Pharmacy Council & Anr. v. Rusha Poddar & Ors.)**.
4. The Hon'ble Division Bench was pleased to hold

that the election should be conducted in the presence of an Observer nominated by the Government to ensure that the entire election process is conducted in a free and fair manner without any irregularity or complaints. The court directed the Secretary, Ministry of Health & Family Welfare Department, Government of West Bengal to nominate a senior officer of the department to act as Observer.

5. The Special Commissioner of the Health & Family Welfare Department appointed the Joint Secretary of the same Department as Observer to ensure that the election process is conducted in a free and fair manner.
6. The petitioner alleges bias on the part of the Registrar and one of the nominated members of the Pharmacy Council. The notice demanding free and fair election was served upon the Observer being the Joint Secretary of the Health & Welfare Department in December 2024. The same is pending consideration.
7. From the election notice dated November 16, 2024 published by the Registrar, West Bengal Pharmacy Council being the Returning Officer of the election of the Pharmacy Council, it appears that the last date for receiving the voting papers from the electors at the Council's office was January 27, 2025 till 5 p.m. and that the scrutiny of the voting papers and the counting of votes is to commence on and from January 30, 2025 from 11 a.m. onwards.
8. The petitioner prays for conducting an inquiry as there are gross illegalities in the election process.
9. Learned counsels for the respondents oppose the contention of the petitioner. It has been

submitted that the writ petition is premature and that the same is not maintainable at this stage.

10. All parties ought to keep in mind that purity in the election process is of prime importance. As the Observer has been appointed for holding the election in a free and fair manner, hence, he ought to promptly address any issue questioning the fairness in the election process. Delay on the part of the Observer to take immediate necessary action may frustrate the very reason for his appointment.
11. Without entering into the issue of maintainability of the writ petition, as it prima facie appears that the election is being conducted in accordance and in compliance with the direction passed by the Hon'ble Division Bench where the court clearly directed appointment of an Observer for ensuring that the election is held in a free and fair manner, and as a complaint alleging illegalities in the election process is pending consideration before the Observer, accordingly, the instant writ petition is disposed of by directing the Observer, being the fifth respondent herein, to consider and dispose of the objection filed by the petitioner dated December 18, 2024 by passing a reasoned decision, after giving reasonable opportunity of hearing to all the necessary parties and communicate the same to the parties. The petitioner submits that he has collected certain information and data with regard to the illegalities in the election and has saved the same in a pen-drive.
12. It will be open for the petitioner to forward the pen-drive to the Observer along with the objection which was filed on December 18, 2024.

13. If it appears that the allegation made by the petitioner is correct, then remedial measures shall be taken by the observer at once.
14. The Observer shall ensure that the objection is positively disposed of prior to the declaration of the election result.
15. It is made clear that till the objection is disposed of, the result of the election of the Pharmacy Council shall not be declared.
16. The writ petition stands disposed of.
17. Affidavit of service filed in court be taken on record.
18. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
19. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

