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ORDER SHEET
WPO No.116 of 2025
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

BIRENDRA PRASAD CHOWDHURY
VS
THE STATE OF WEST BENGAL & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date : 3rd April, 2025.

Appearance:
Mr. Jayanta Narayan Chatterjee, Sr. Adv.
Mr. Supreem Naskar, Adv.
Ms. Jayashree Patra, Adv.
Mr. Bhaskar Mondal, Adv.
...for the Petitioner.

Mr. Anand Farmania, Adv.
Ms. Indumoli Banerjee, Adv.
...for the State.

Mr. Arup Kumar Roy, Adv.
Mr. Ashutosh Singh, Adv.
...for Respondent No.4.

1. Heard submissions made on behalf of all the parties and have perused the report prepared by the competent authority under the West Bengal Apartment Ownership Act, 1972 on 24th March, 2025. The order of the Special Secretary and the competent authority under the West Bengal Apartment Ownership Act, 1972 dated 25th February, 2025 has also been perused.
2. It appears therefrom that there is requirement of forty eight managers in the subject complex. Only twenty four managers have been elected in December, 2024 and there is vacancy for the balance twenty four. Special Secretary and the competent authority was of the opinion that

the election may be conducted for filling up vacancies of the balance twenty four managers of the Board.

3. Such opinion of the competent authority does not appear to be legally correct. If the managers are elected in piecemeal manner, then the tenure of the Board can never be fixed properly. The managers elected earlier will have a different tenure than the managers elected later. By this way the Board cannot function properly for any particular tenure. Every time elections have to be held on different dates so that a proper valid Board can be constituted for a particular time period.
4. To put at rest the issue of piecemeal elections of the managers, in opinion of the Court, the best method is to conduct fresh election for all the forty eight vacancies in one go. Notice of election shall be published for filling up all the forty eight vacancies at a time.
5. The competent authority is, accordingly, directed to take steps for conducting the election strictly in accordance with law. Election shall positively be concluded within a period of three months from date. Till the new Board is constituted, the twenty four elected members shall function in accordance with the provisions of the West Bengal Apartment Ownership Act, 1972.
6. The entire election process which allegedly started in the month of February, 2024 stands set aside.
7. The writ petition stands disposed of.

8. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)

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