

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE/ORIGINAL SIDE**

Present:

The Hon'ble Justice Raja Basu Chowdhury

WPA 12614 of 2025

Mainak Goswami & Anr.
Versus
The State of West Gengal & Ors.

With

WPO 417 of 2025

Sagar Prasad & Anr.
Versus
The State of West Bengal & Ors.

For the Petitioners in WPA 12614 of 2025	:	Mr. Srinjay Sengupta, Adv. Mr. Saurav Roy, Adv. Mr. A. Ghosh, Adv.
For the Petitioners in WPO 417 of 2025	:	Mr. Milon Kumar Bhattacharya, Sr. Advocate, Mr. Amitava Chaudhuri, Adv. Mr. N. Roy, Adv. Mr. Pradipta Siddhanta, Adv.
For the State	:	Mr. Jahar Lal De, AGP Mr. Parikshit Goswami, Adv.
For the Cooperative Election Commission	:	Mr. Srijan Nayak, Adv. Mrs. Rituparna Maitra, Adv.
For the respondent no. 3 in WPA 12614 of 2025 & WPO 417 of 2025	:	Mr. Ankit Sureka, Adv. Mr. Biplob Das, Adv.
For the respondent no. 3 in WPO 417 of 2025	:	Mr. Asis Dutta, Adv.
For the respondent no. 3 in WPA 12614 of 2025	:	Mr. Partha Sarathi Pal, Adv.

For the Police Authority : Mr. Arindam Mondal, Adv.
Mr. Paritosh Sinha, Adv.

Heard on : 17.06.2025

Judgment on : **17th June, 2025**

Raja Basu Chowdhury, J:

1. Affidavit of service filed in Court today is taken on record.
2. Leave is granted to the learned advocate appearing on behalf of the Assistant Returning Officer to file Vakalatnama in the department.
3. Since, both the writ petitions raise common question as regards fixing of one particular polling station for the purpose of holding election of Calcutta Tramways Employees Cooperative Credit Society Limited (hereinafter referred to as the “Cooperative Society”), the aforesaid writ petitions are taken up for consideration together and are dealt with by a common order.
4. The petitioners in both the writ petitions are the members of the Cooperative Society. It is the petitioners’ case that the last election of the Cooperative Society was held on 27th February, 2015. At the relevant point of time, as per the election schedule published by the Assistant Returning Officers of the Cooperative Election Commission it would transpire that there were 25 constituencies and the number of polling stations were 11. It is the petitioners’ case that on this occasion for the ensuing elections of the delegates of the Cooperative Society, the election schedule published by the Assistant Returning Officer on 23rd May, 2025 notifies that the

election shall be at one particular polling station situated at Jogesh Mime Academy, Padabali, 97B S. P. Mukherjee Road, Kalighat Park, Kolkata – 700 026. The petitioners are aggrieved by the fixing of one particular venue/polling station for holding election of the Cooperative Society. According to the petitioners although, representations have been made and addressed to the Returning Officer for providing additional number of polling station, such request has not been adhered to.

5. Mr. Bhattacharya, learned senior advocate representing the petitioners in WPO 417 of 2025 (Original Side) by drawing attention of this Court to two separate election schedule, one published in the year 2015 and the other published on 23rd May, 2025 for holding election of delegates which is scheduled to be held on 22nd June, 2025, would submit that there was no justification for the Cooperative Election Commission to hold election in one particular polling station, having regard to the members of Cooperative Society being attached with the various depots of the Cooperative Society which are situated all over the city of Kolkata and the State of West Bengal. According to him, the members would be severely inconvenienced for travelling to one particular polling station especially since the nature of the duties of the members of the Cooperative Society are such that they are also require to work on holidays as well. He would further submit that the time provided for holding the election is also inadequate as the

same provides for a small window to the members of the Cooperative Society to cast their respective votes. It is submitted that though a representation supported by a total 401 number of members of the Cooperative Society dated 27th May, 2025 had been made, no steps have been taken by the Assistant Returning Officer. This seeks to interfere with the democratic rights of the members of the Cooperative Society and unless appropriate protection is afforded by directing the Assistant Returning Officer to provide for additional polling stations, the petitioner and the members of the Cooperative Society shall suffer irreparable loss.

6. Mr. Sengupta, learned advocate appearing in support of the writ petition, being WPA 12614 of 2025 (Appellate Side), while supporting the submissions of Mr. Bhattacharya, learned senior advocate would submit that the entire process of holding election at one particular place seeks to interfere with the rights of the members of the Cooperative Society. This apart, he submits that taking into consideration the nature of duties allotted to the members of the Cooperative Society which includes manning public transport, unless appropriate protection is afforded, it is more likely than not that the public transport in the city of Kolkata will be severely affected if the members of the Cooperative Society have to rush to one particular polling station for casting their votes on a particular date.

7. Mr. De, learned Additional Government Pleader and senior advocate, representing the State of West Bengal would submit that no irregularity has been committed by the Assistant Returning Officer in deciding the venue for holding election. According to him, Regulation 3(3)(iv) of the West Bengal Cooperative Election Commission Regulation, 2012 (hereinafter referred to as the “said Regulations”) authorizes the Assistant Returning Officer to take a decision in this regard. Adequate security has been provided for holding election on the scheduled date. The apprehension of the petitioners is entirely unfounded.
8. Mr. Nayak, learned advocate representing the Cooperative Election Commission, West Bengal would at the very outset submit that the aforesaid writ petitions have been filed only by a handful number of members of the Cooperative Society. None, apart from the petitioners have come forward to challenge the decision of the Assistant Returning Officer in holding election at a particular polling station. He would submit that there can be no comparison of the election schedule published in the year 2015 with the one in the year 2025 since, a sea change has taken place in the number of member of the Cooperative Society. According to him there were around 7000 members in the year 2015 which has come down to about 1097 in 2025. By placing before this Court Rule 31 of the West Bengal Cooperative Societies Rules, 2011 (hereinafter referred to as the “said Rules”) he would submit that the procedure

for determining the number of delegates and segregation of the constituencies have been provided for and a decision has been taken on the basis of Rule 31(a) of the said Rules. According to him, Regulations 3(3)(ii), 3(3)(iii) and 3(3)(iv) authorizes the Returning Officer not only to make arrangement but also to determine the venue of polling station and take all steps in accordance with the election process. According to him, the decision taken by the Assistant Returning Officer ordinarily cannot be the subject matter of scrutiny before this Court and in support thereof, he has relied on an unreported judgment delivered by the Hon'ble Division Bench of this Court in the case of ***The Secretary, West Bengal Co-operative Election Commission vs. The Commissioner, West Bengal Co-operative Election Commission & Ors.***, in **MAT 339 of 2017 with CAN 2416 of 2017** on 10th April, 2017. He has also relied on an unreported judgment delivered by this Court in the case of ***Sanjay Ghosahal @ Sanjay Ghosal & Ors. vs. State of West Bengal & Ors.*** in **WPA 8928 of 2025** on 24th April, 2025. Having regard thereto, he submits that no interference is called for.

9. Mr. Sureka, learned advocate appears on behalf of the Assistant Returning Officer and supports the contention of Mr. Nayak. He submits that the decision to hold election has been taken solely on the basis of the number of members of the Cooperative Society and as such no interference is called for. In addition thereto, in order to justify as to why election has not taken place in the respective

depots of the Calcutta Tramways Corporation, he has relied on the notice dated 27th March, 2018 issued by the Managing Director of the West Bengal Tramways Corporation Limited. Let a copy of the aforesaid document be retained with the records.

10. Heard the learned advocates appearing for the respective parties and considered the materials on record. Prima facie, it would transpire that the last election of the Cooperative Society was held on 27th February, 2015. From the election schedule published by the Assistant Returning Officers on 1st February, 2015, it would transpire that the total number of delegates to be elected were 25, whereas the total number of voters who were required to cast their votes were 5308. It would further transpire from the election schedule that a total number of 11 polling stations were provided for. To morefully appreciate the above, the relevant election schedule is extracted hereinbelow:

14 Annexure - P-3 P-3

THE CALCUTTA TRAMWAYS EMPLOYEES' CO-OPERATIVE CREDIT SOCIETY LIMITED
REGISTRATION NO. 5/CAL OF 1927 DT. 09.06.1927
12, R.N. MUKHERJEE ROAD, KOLKATA-700001

CONSTITUENCY-WISE FINAL LIST OF VOTERS FOR ELECTION TO BE HELD 27.02.2015 OF 25 (TWENTY FIVE) DELEGATES IN THE RUN UP TO ELECTION 12 (TWELVE) DIRECTORS IN THE BOARD OF THIS SOCIETY OF WHICH 2 (TWO) AND 1 (ONE) ARE RESERVED FOR WOMEN AND SC/ST RESPECTIVELY.

Constituency No.	Name of Constituency	Sl. No. Voters (from-to)	No. Of Voters	No. Of Delegates to be Elected	Polling station
1	Park Circus Depot	1-199	199	1	1, Congress Exhibition Road, Kolkata-17
2	Gariahat Depots	200-446	247	1	52, Gariahat Road, Kolkata-13
3	Overhead Cables & Sub-station Lighting	447-683	237	1	180, Lelin Sarani, Kolkata-13
4	Rajabazar depots	684-927	244	1	298, A.P.C. Road, Kolkata-9
5		928-1171	244	1	
6		1172-1415	244	1	
7		1416-1642	227	1	
8	Khiderpore Depots	1643-1868	226	1	97, Circular garden Reach Road, Kolkata-23
9	Head office	1869-2053	185	1	12, R.N. Mukherjee Road, Kolkata-700001
10		2054-2239	186	1	
11		2240-2425	186	1	

01.02.15

01.02.15

Assistant Returning Officer
The Calcutta Tramways Employees' Co-operative Credit Society Ltd.
12, R.N. Mukherjee Road, Kolkata-700001

Assistant Returning Officer
The Calcutta Tramways Employees' Co-operative Credit Society Ltd.
12, R.N. Mukherjee Road, Kolkata-700001

Page 1 of 2

n 9 JUN 2015

18

**THE CALCUTTA TRAMWAYS EMPLOYEES'
CO-OPERATIVE CREDIT SOCIETY LIMITED**
REGISTRATION NO. 5/CAL OF 1927 DT. 09.06.1927
12, R.N. MUKHERJEE ROAD . KOLKATA-700001

Constituency No.	Name of Constituency	Sl. No. Voters. (from-to)	No. Of Voters	No. Of Delegates to be Elected	Polling station
12	Gashbagan Depot	2426-2685	260	1	80, Dr. Abani dutta Road. Howrah-1
13	Nonapukur	2686-2874	189	1	183, A.J.C. Bose Road. Kolkata- 700016
14		2875-3064	190	1	
15		3065-3253	189	1	
16		3254-3443	190	1	
17	Kallighat & Tollygung Depot	3444-3662	219	1	257, Desh pran Sasmal road. Kolkata- 33
18		3663-3881	219	1	
19		3882-4101	220	1	
20	Belgachia Depot	4102-4315	214	1	34 Belgachia Road. Kolkata- 37
21		4316-4529	214	1	
22		4530-4743	214	1	
23	Esplanade Tr. O/D, Break Down/ ODLM	4744-4932	189	1	CTC Control, Dharmatola, Kolkata-69
24		4933-5121	189	1	
25		5122-5308	187	1	
TOTAL			5308	25	

Signature
01.02.15
Assistant Returning Officer
The Calcutta Tramways Employees' Co-operative
Credit Society Ltd.
Mukherjee Road, Kolkata-700001

Signature
01/02/15
Assistant Returning Officer
The Calcutta Tramways Employees' Co-operative
Credit Society Ltd.
12, R.N. Mukherjee Road, Kolkata-700001

Signature
01.02.15
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The Calcutta Tramways Employees' Co-operative
Credit Society Ltd.
12, R.N. Mukherjee Road, Kolkata-700001

11. It is a matter of record that on 23rd May, 2025 the Assistant Returning Officer has published the election schedule for the ensuing election of delegates. As per the election schedule the date for holding election is fixed on 22nd June, 2025 and the time for casting votes is between 10.00 a.m. to 2.00 p.m. While the only polling station as indicated has already been noted hereinabove. Although, a lot of stress has been placed by both Mr. Nayak and Mr. Sureka learned advocates representing the Cooperative Election Commission and the Assistant Returning Officer as regards the number of voters to cast their votes, the aforesaid schedule is conspicuously silent regarding the number of voters who are required to cast their votes. To appropriately appreciate

the above, the relevant portion of the aforesaid schedule is extracted hereinbelow:

বিজ্ঞপ্তি

The Calcutta Tramways Employees Cooperative Credit Society Ltd.
Reg.No.5/Cal of 1927
12, R. N. Mukherjee Road, Kolkata-700001.

NOTICE

All the members are hereby informed that the following schedule of election of delegates is published with a view to holding election of 44 delegates, specific to their assigned constituencies, in the run-up to election of 12 (twelve) directors in the board of the said society, of which 2(two) and 1(one) being reserved for women and SC/ST respectively.

Schedule of election

Sl. No.	Particulars	Date/s	Time	Place/venue	Name & Post of assigned person
2	Filing of Nomination papers in FORM-X [Rule(7)(i)] along with applications for symbols (optional).	26.05.2025 & 27.05.2025	12 noon to 3.00 pm.	At the office of the society at its registered address at 12, R. N. Mukherjee Road, Kolkata-700001.	ARO/ Authorized person
3	Scrutiny of nomination papers	29.05.2025	1Pm.	Same as above.	ARO
4	Publication of list of valid nominations	29.05.2025	After scrutiny is over	On the notice board of the society at its registered address.	ARO
5	Last date of withdrawal of candidature	30.05.2025	Before 3 pm.	At the office of the society at its registered address.	ARO
6	Publication of list of valid candidates after withdrawal and allotment of Symbol(s), if any.	30.05.2025	After 3 pm.	On the notice board of the society at its registered address.	ARO
7	Election of delegates by ballot, if required	22.06.2025	10.00 am to 2.00 pm	Jogesh Mime Academy, Padabali, 97B, S. P. Mukherjee Road (Kalighat Park), Kolkata 700026.	ARO/ Polling Personnel
8	Counting of votes	22.06.2025	After polling is over		
9	Declaration of result	22.06.2025	After Counting is over		

Date: 23.05.2025

sd/-
Assistant Returning Officer

12. On a comparison of both the aforesaid schedules, it would demonstrate that although, in the year 2015 there were 25 numbers of constituencies/delegates to be elected, on this occasion the number of delegates have been increased to 44. In order to justify a particular polling station/fixing the venue for holding election, the stand taken by the Cooperative Election Commission and by the Assistant Returning Officer are, however, different. While on behalf of the Cooperative Election Commission it has been stated that in order to accommodate all the voters, the election has been proposed to be held on a holiday. The Assistant Returning Officer would, however, submit that the decision to hold the election at a particular venue has been influenced by the

number of members of the said Society. Even if the contention of the Assistant Returning Officer is accepted it may at best appear that the number of voters is 1097. It is, however, an admitted position that the members of the Cooperative Society are attached with the various depots of the Cooperative Society and are discharging their duties for the transport department. Contrary to the submissions made by Mr. Nayak, ordinarily transport services are provided even on holidays. Having regard thereto, fixing one particular venue on a holiday so as to justify the same does not appear to be reasonable.

13. Be that as it may, I however notice that Regulations 3(3)(ii), 3(3)(iii) and 3(3)(iv) in particular provides for general duties of the Returning Officer which include fixing the election schedule and making arrangements for the polling station/s. Having regard thereto and in the light of the judgment delivered by the Hon'ble Division Bench of this Court in the case of **Secretary, West Bengal Cooperative Election Commission** (supra) it is true that ordinarily the discretion exercised by the Assistant Returning Officer are not to be interfered with. But peculiar facts required peculiar consideration.
14. Admittedly, in this case on the previous occasion in the year 2015 the election was spread out all over the city of Kolkata in 11 numbers of polling stations. Although the voters have come down by 1/5th of the same, however, in my view the same cannot justify

holding of election in a particular venue that too between 10.00 a.m. to 2.00 p.m. when most of the members of the Cooperative Society would be discharging their duties. This apart, admittedly the number of delegates from the previous election has almost doubled. Though there may be variation in the number of voters, the same may not also justify holding of election at a particular venue.

15. The decision taken by the Assistant Returning Officer though discretionary, however, the same cannot stand in the way of this Hon'ble Court exercising jurisdiction especially when the Hon'ble Court is of the view that the decision taken was so absurd that no man of ordinary prudence would accept the same. The above decision of the Assistant Returning Officer appears to be in conflict with the principles of Wednesbury's principles of reasonableness. This also does not appear to be a judicious exercise of discretion by the Assistant Returning Officer. The judgement delivered in the case of ***Secretary, West Bengal Co-operative Election Commission*** (*supra*) was delivered in a different set of facts wherein the primary question that fell for consideration was whether the Assistant Returning Officer was bound to provide reasons for changing the venue of election from factory premises to an educational institution though such change was necessitated for ensuring neutrality and fairness. It is in that context, the Division Bench of this Hon'ble Court had held that it was the prerogative of the

Assistant Returning Officer to decide the venue for holding the election and he was not under any obligation to provide reasons. Such is not the case here. The discretion exercised by the Assistant Returning officer in determining to hold election in one particular polling station in the facts of the case does not appear to be a judicious exercise of discretion.

16. Having regard thereto, I have no doubt in my mind that the decision to hold election in one particular polling station that too between 10.00 a.m. to 2.00 p.m. appears to be wholly irrational and unjustified.
17. In view thereof, I direct the Assistant Returning Officer to forthwith reconsider the above issue especially having regard to the election schedule published by the Assistant Returning Officer in the year 2015 and to provide for at least 5 (five) numbers of polling stations all over the city of Kolkata.
18. Such reschedule venue must be published on/or before 20th June, 2025. Since, the State authorities are represented I direct the Joint Commissioner of Police, Headquarter, to provide adequate police protection for the purpose of holding election at the respective venues to be notified by the Assistant Returning Officer.
19. Before parting, I must note that although the respondents had raised the issue of maintainability of the writ petition on the ground that the writ petition was filed by only individual writ petitioners, I, however, notice that the writ petition in the Original

Side is supported by at least 401 members of the Cooperative Society whose signature are annexed with the representation addressed to the Returning Officer, which representation has not been considered. As such there is no merit in such objection.

20. Since nothing survives in the writ petitions, the writ petitions are accordingly disposed of.
21. All parties are directed to act on the basis of the server copy of this order duly downloaded from the official website of this Court.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)