

02.04.2026
SL No.2-3
Court No.12
(gc)

**FMA 623 of 2025
CAN 1 of 2025
In
WPA 22410 of 2023**

**Ramanand Yadav & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Subhankar Nag,
Mr. Avishek Guha,
Ms. Sonal Agarwal

...for the Appellants.

Mr. Ankit Sureka,
Mr. Biplob Das

...for the Respondent No.5.

Mr. Srijan Nayak,
Mrs. Rituparna Maitra

...for the Co-operative
Election Commission.

Mr. Deebnath Roy Chowdhury,
Mr. Vijay Verma,
Mr. Ovik Sengupta,
Ms. Soumita Shaw,
Mr. Subrata Saha,
Mr. Vikas Kumar,
Mr. Mithun Das

... for the Winning Candidates.

(Respondent Nos.6,9, c, h-m, o, p, 4, s, v-x, u,
aa, cc, dd, ff, gg, hh, ii, jj, kk).

1. The appellants were the contestants in the election of delegates for Kolkata Port Trust Employees Co-operative Credit Society. They filed a writ petition being WPA 22410 of 2023 challenging the process of election of the society on various grounds, namely, non-compliance of the statutory requirements, arbitrariness, illegality and violation of the principles of natural justice. The

members of the co-operative society are the employees of Shyama Prasad Mookerjee Port Trust. There are approximately 1215 members, who are all voters. Four of such members who contested the election were aggrieved out of 1215 members. The grounds for challenge have been enumerated in paragraphs 4, 5 and 6 of the order impugned before us.

2. Mr. Nag, learned Advocate for the appellants submits that when the draft voter's list was published, an objection was raised before the Assistant Returning Officer, Co-operative Directorate, Kolkata Range. Reference is made to page 97 of the application. Such objection was not taken into consideration and the final list was published. He next contended that the appellants were not allowed to nominate election agents or relievers, although, the notification dated April 13, 2012, bearing No.15/CEC issued by the Government of West Bengal, Co-operative Election Commission permitted nomination of agents in respect of all candidates. Next submission was that the schedule of the election would clearly indicate that, no particular date or time had been fixed within which the nomination of the agents had to be made. Thus, even if such nomination was made belatedly, that is, on September 11, 2023, the nomination of the agents should have been accepted. Referring to the order

impugned, Mr. Nag submitted that on this issue, the learned Judge misdirected himself by construing Regulations 12 and 13 in a manner that, the nomination of the agents had to be made simultaneously with the filing of the nomination paper of the candidate. Next submission was that Page 289 of the application was completely ignored by the learned Judge while holding that the nomination of the agents was not within the specified time. The appellants had addressed a letter/representation to the Returning Officer, Co-operative Election Commissioner, Co-operation Directorate, expressing their intention to appoint their individual election agents.

3. According to Mr. Nag, the results of the election were rigged, inasmuch as, the CCTV cameras which had been fixed by the society had been removed under the direction of the Assistant Returning Officer. Such action would show that the entire election process was unfair and biased. To buttress such submission, a document has been shown to us indicating that the President of the Trade Union to which the winning candidates belong, was the Minister-in-charge of the Co-operation Department at the relevant point of time and as such the said Minister, who was from the ruling party, had influenced the commission during the entire period of election. Relying on Regulation 12 (iv) & (v), it is

submitted by Mr. Nag that when the Regulations permitted the candidates to revoke the name of their agents even on the date of election, on account of death or for other disqualification, the nomination of the agents on 11th September, 2023, was not time barred as per the Regulations. In fact, the Regulations permitted nomination of the agents even on the last date. Thus, the finding of the learned Judge was perverse. It was next submitted that in the decision of the Hon'ble Apex Court in ***Jagan Nath Vs. Jaswant Singh & Ors.*** reported at ***(1954) 1 SCC 57*** and ***Jyoti Basu & Ors. Vs. Debi Ghosal & Ors.*** reported at ***(1982) 1 SCC 691***, Hon'ble Apex Court had clearly laid down that the power of judicial review would extend to matters with regard to elections, in the event there was violation of law or unfairness. Secondly, the law relating to elections had to be construed strictly and literally and the Court could not import any other possible interpretation on the basis of equitable considerations. Common law should stand at a distance, when it came to adjudicating any issue with regard to elections.

4. Mr. Nag submits that the intention to remove CCTV cameras was to cover up the illegalities which had taken place during the election. Prior to the election, the appellants were threatened by the members of the winning union.

5. Mr. Sureka, learned Advocate for the Co-operative Society submits that the Co-operative society is not run by the Unions. The statute does not recognize any Union. Thus, the very basis of the challenge of the election process allegedly by the members of a particular Union against another Union was misconceived. He submits that each of the members of the society has their own member identification number. There are as many as 1215 members and four out of those members have filed the instant writ petition after the declaration of the results. Allegations have been made with regard to the non-compliance of law in the preparation of the draft voter list and the final voter list. However, no challenge had been thrown to the same at the appropriate stage. Even after the publication of the schedule, there was no challenge. The appellants contested the election, their supporters voted, the counting was done and the results were published on September 12, 2023 as per the schedule. On September 14, 2023, the writ petition was filed with challenges to the draft voter list, final voter list, election schedule, removal of CCTV cameras, conduct of the election by the commission and the publication of the results. According to Mr. Sureka, the fence-sitters do not have any right to approach this Court with unclean hands. Mr. Sureka specifically submits that the President of the alleged Union whose members were

successful in the election process was not the Minister-in-charge of the Cooperation Department on the date of the election. One Mr. Pradip Majumder was the MIC at the relevant point of time.

6. Mr. Roy Chowdhury, learned Advocate appearing of the winning candidates submits that the election was held in the presence of CISF officials and adequate police personnel. 90% of voting took place, without any disturbance. There was no report of bloodshed or violence. The election process was smooth. He takes us through the averments in the affidavit-in-opposition in support of his contentions.
7. Mr. Nayak, learned Advocate for the Election Commission submits that the nature of the dispute which has been raised, were beyond the purview of the writ court. The writ court could only ascertain whether there were violations of the statute or whether the procedure established by law was followed or not in holding the election. No records were available which would indicate that the appellants could substantiate the allegation of violence during the election. The Election Commission was statutorily empowered to conduct the election from the very initial stage, till the declaration of the result. He also submits that no dispute had never been raised before the Commission under the Regulation.

8. All the respondents have unanimously submitted that the elected delegates and the board have been functioning for 2.5 years, without any complaint. Several policy decisions have taken with serious financial implications. At this stage, it would be unfair to even consider the allegations made by the appellants.
9. We have heard the rival contentions of the parties with regard to the objections. We find that on July 31, 2023, six members had filed an objection on various issues. However, the names of the appellants do not figure in such objection. The final voter's list was published on August 7, 2023. We do not find anything on record to show that there was any specific objection to the final voter's list at the instance of the appellants. The election schedule was also published on August 7, 2023. We do not find any objection to the same.
10. Although Mr. Nag has placed reliance on a Form submitted by one Pradip Kr. Indo to the Assistant Returning Officer with regard to the nomination of the agent, Pradip Kr. Indo is not an appellant. In any event, the Form was submitted on September 11, 2023, before the Assistant Returning Officer. The document at page 289 on which Mr. Nag has placed heavy reliance in support of his contention that the agent was nominated before the election and such nomination should have been accepted, we find that the same was merely a

representation and not in the format prescribed under Regulation 12(ii). With regard to the CCTV cameras, it is a fact that those CCTV cameras were installed by the co-operative society through a private agency for safety and security of the premises of the society. Those cameras were not installed by the Commission which is the statutory body empowered under the law to conduct the election and take all measures and actions for smooth conduct of the election.

11. Under such circumstances, the contention of the Assistant Returning Officer in the affidavit that those cameras would compromise the identity of the voters and there was a possibility of attack on such voters, cannot be ruled out. The Co-operative Election Commission represented by Mr. Nayak has been empowered under sub-section 8 of Section 96 of the West Bengal Co-operative Societies Act, 2006 to make rules, regulations and fix the procedure for the following:-

- a) Conduct of election.
- b) Preparation of the electoral roll from the election.
- c) Fixing the date, place and manner of election.
- d) Fixing the date and manner of publication and declaration of the result of the election.

- e) Fixing the cost of holding the election of Co-operative society and the manner of assessing and realization of cost at symbol that may be used for election by the candidates.

12. The Assistant Returning Officer, who had been empowered by the Commission to perform all or any of the functions relating to the holding of election, had the discretion to decide whether the CCTV cameras which were placed in a way that the identity of the voters and the symbol for which they were voting would be revealed, thereby, causing threat to the safety and security of the voters. Thus, direction to remove them cannot be arbitrary. The provision for installation of CCTV cameras for live streaming or recording of the election process, is neither provided under the Act nor the Regulations.

13. With regard to the interpretation of Regulation 12 by the learned Single Judge, we are in agreement with His Lordship. The regulation permits revocation and/or change of nomination of the agent on account of death or otherwise, even on the day of the election. That does not mean that Regulations 12(i) and (ii) should not be read harmoniously in a case in which the question of revocation does not exist. Regulations provide that on the day after the last date for filing the nomination, scrutiny shall be made, in which the agent and the

candidate can be present. This itself shows that the nomination of the candidate and the nomination of the agent are simultaneous acts. At 3.35 p.m. on the day before the polling, the representation to the Returning Officer, does not amount to proper compliance of Regulation 12. In any event, we do not find from the records that the nomination of the agent had been done in the prescribed form even on September 11, 2020.

14. With regard to the allegation of threat, violence, etc., we find that adequate CISF personnel and police personnel were present during the voting. There is no denial of the averments in the affidavit-in-opposition with regard to the deployment of force. Thus, the writ court could not go beyond such pleadings, by embarking on a roving enquiry to find out exactly what had taken place. These are matters of evidence which require a full-fledged trial. We also do not find that, apart from the four appellants and some others who had filed another writ petition, the other members are aggrieved by the result of the election.

15. In the decision of **Jyoti Basu & Ors.** (supra), the Hon'ble Apex Court held that common law principle would not govern an election dispute and the principles of equity should be kept at bay. We are of the view that the learned Trial Judge interpreted the regulation

literally and has not made any equitable consideration while passing the order impugned.

16. The decision of ***Jagan Nath*** (supra) is also on a similar proposition of law. We find that His Lordship has not deviated from the general rule that, statutory requirements of election law must be strictly observed and that an election contest was neither an action at law nor a suit in equity, but a purely statutory proceeding.

17. Considering ***Union Territory of Ladakh & Ors. Vs. Jammu and Kashmir National Conference & anr.*** reported at **2023 SCC OnLine SC 1140**, we find that His Lordship did not abdicate his judicial function, thereby dismissing the writ petition on the ground that an alternative remedy was available. His Lordship entered into the merits of the allegations of the appellants, dealt with each and every point with reasons and arrived at a definite conclusion.

18. Under such circumstances, we do not entertain the appeal as we do not find any perversity or irregularity in the order passed by the learned Court. Although, questions have been raised with regard to the independence of the Commission to decide an election dispute, the vires of the Regulation has not been challenged. His Lordship has gone into the merits of

each and every allegation that was raised in the writ petition.

19. Under such circumstances a passing reference to the alternative remedy does not vitiate the order impugned. We thereby dismiss the appeal.

20. Accordingly, the appeal and the connected application are dismissed.

21. There shall be no order as to costs.

22. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)