

S/L 35
17.04.2026
Court. No. 25
sourav

**WPA 9020 of 2026
With
CAN 1 of 2026**

**Rupa Banerjee Nee Samjpati
Vs.
The Election Commission of India & Ors.**

*Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Shamim Ahmed
Mr. Srijib Chakraborty
Mr. Subhasis Chakraborty
Mr. Aditya Mondal
Ms. Sushmita Kumari Singh*
...for the petitioner.

*Mr. Shamim Ahmed
Ms. Ambiya Khatun
Md. Nasirul Haque
Ms. Reshma Khatun
Ms. Subnam Mostari
Ms. Huma Shakil*
...for the applicant.

*Mr. Soumya Majumdar, Sr. Adv.
Ms. Anamika Pandey
Ms. Rishika Pandey*
...for the Election Commission of India.

1. The petitioners have filed the present writ application challenging the order of appointment of the petitioners as Presiding Officers in the different polling booths of the West Bengal Legislative Assembly Election, 2026 which is scheduled to be held on April 23, 2026 and April 29, 2026.
2. The case of the petitioners is that the petitioners are working as Assistant Professors in different government colleges in the State of West Bengal. The petitioners submit that they are holding posts of Assistant Professors but have been assigned the work of the Presiding Officers without considering the pay level of the petitioners. He submits that the Central Government Class I or Group A

officers/IAS/IPS/equivalent cadres at the level 10 of the current pay matrix receive an entry level basic pay of Rs. 56,100/- which is marginally lower than that of college and university teachers as per GSR 721 (E) dated July 25, 2016.

3. The petitioners have relied upon the circular dated February 16, 2010 under the subject requisition of staff for election purpose wherein it is categorically mentioned that Group A equivalent senior officers including teaching staff of universities, colleges etc., should not be drafted for “polling duties” in polling station premises without specific reasons to be recorded in writing by the District Election Officer where such appointment becomes unavoidable.
4. The matter was taken up for hearing before this Court on April 13, 2026. By an order dated April 13, 2026, learned counsel appearing for the Election Commission of India prays for time to produce the record to prove that due to some unavoidable circumstances, the petitioners have been appointed as Presiding Officer in the Polling Station. The matter was again taken up for hearing on April 16, 2026. On the said day also, the respondents failed to produce the documents and accordingly, the case was adjourned till today.
5. Today when the matter is taken up for hearing, learned counsel for the Election Commission of India has relied upon the circular dated June 7, 2023 and submits that by the said circular, the earlier all circulars have been superseded and in the said circular it has been clarified

that in drawing up the seniority list of officials required for election duty, the District Election Officer should consider at the outset, the pay, rank and status of the officials nominated and classify them accordingly for the purposes of randomization as per the detailed instructions already available. A presiding Officer should be of higher scale/grade/rank in comparison to all Polling Officers appointed in his group.

6. He further submits that as per the said circular, in determining the rank and status of officials drawn from different pools with different pay scales, the relative position of the official in his cadre/organization may also be considered and not merely the pay scale. For example, a Group D employee from any pool, even drawing very high pay, should not be assigned duties of Presiding Officer or Polling Officer.
7. Mr. Majumdar, learned senior counsel appearing for the Election Commission of India submits that there are altogether approximately 90,000 booths to conduct the election on April 23, 2026 and April 29, 2026 and as such, it is not possible for the authorities to prepare the seniority list and there may be some overlapping that some of the persons who is having the lower pay scale may in the supervisory post but the petitioners have not made out such case for pointing out any persons who have been appointed in the supervisory post as polling officer.
8. Mr. Majumdar further submits that order was issued to the petitioners on March 20, 2026 and thereafter some of

the members of the petitioner have complied with the said orders but some of the members of the petitioner have not complied with the said orders and accordingly, show-cause notice has been issued. The petitioners have submitted the show-cause reply and thereafter, at the flag end when the election is to be held, filed the present writ application with the intention to disturb the election process.

9. He further submits that in the show-cause reply, their contention is that either they should be exempted from the election duty as Presiding Officers in the Polling Stations or for the smooth conduct of the West Bengal Legislative Assembly Election, 2026 they express their willingness to perform any election duties which commensurate with their rank and salary in conformity with the orders issued by the Election Commission of India. He submits that once the petitioners in the show-cause reply have accepted that they are ready and willing to work for the election duty for smooth functioning of the election duty and as such, the stage has not come whether which post the petitioners will be placed for the election duty.
10. Learned counsel for the respondents has relied upon the unreported judgment passed by the co-ordinate Bench of this Court in the case of ***Sri Kaushik Bandopadhyay & Ors. Vs. The Election Commission of India & Ors.*** in WPA 11567 of 2024 dated May 1, 2024 and submits that the similar question was raised before this Court by the Assistant Professors of the Government

Colleges and this Court has held that the petitioners who are serving as Assistant Professors or Associate Professors do not qualify to be engaged as Micro Observers in view of the notification dated June 14, 2023. He submits that once the issue has been settled by this Court, now this Court cannot reopen the said issue by setting aside the order passed by the authorities for appointing the petitioners as Presiding Officers of the Polling Booth.

11. Learned counsel for the petitioner has filed the supplementary affidavit disclosing certain documents wherein it reveals that altogether there are 6,81,541 Group B posts are available in the State of West Bengal. The authorities have chosen the petitioners who are working as Professor/Assistant Professor/Associate Professor in different government colleges of State of West Bengal to perform their duties as Presiding Officers without considering their rank, pay scale and status. The petitioner has also relied upon one order dated March 17, 2026 wherein three persons who are working as Stenographer, Supervisor and Workshop Instructor have been appointed as Section Officers/Assistant Sector Officer for the purpose of the said election.
12. He submits that in one hand, the authorities have appointed the petitioners who are working as Professors/Assistant Professor/Associate Professor as Presiding Officer in the Polling Booth on the other hand, Stenographer, Supervisory Grade I or Workshop

Instructor have been appointed as Section Officer/Assistant Sector Officer.

13. Mr. Bhattacharyya, learned senior counsel appearing for the petitioner submits that in the circular dated 16/17th February, 2010, it is categorically mentioned that Group A equivalent Senior Officers including teaching staff of universities, colleges at should not be drafted for “Polling duties” in polling station premises without specific reasons to be recorded in writing by the District Election Officer where such appointments become unavoidable. He further submits that this Court has specifically directed the authorities to produce under what circumstances the authorities have taken a decision for appointing the petitioners as polling officers in the different polling stations. In spite of several opportunities given by this Court to the District Election Officer to produce the document under what circumstances, the authorities have taken a decision for appointment of the petitioners as polling officers but in spite of several opportunities given by this Court, the authorities failed to produce any substantial document under which unavoidable circumstances the petitioners have been appointed as Presiding Officers.
14. The unreported judgment relied by the respondents in the case of ***Sri Kaushik Bandopadhyay & Ors. (Supra)***, the Hon’ble Court found that the District Election Officer, Howrah has provided the reasons for appointing the petitioners as polling officers but the said fact is missing in the present writ application.

15. The respondents have submitted that by a circular dated June 7, 2023, the circular dated 16/17th February, 2010 is superseded but this Court finds that in the circular dated June 7, 2023 there is no mentioning of circular dated February 17, 2010, thus it cannot be said that the circular dated February 17, 2010 is superseded.
16. Considering the above, this Court finds that the authorities failed to produce any document to show the unavoidable circumstances, on the basis of which the authorities have taken a decision for appointment of the petitioners as Presiding Officers in the polling booth. Thus, this Court finds that the authorities without taking any decision have appointed the petitioners who are working as Assistant Professors/Associate Professors in different Government Colleges of the State of West Bengal have been appointed as Presiding Officers in violation of the circular dated 16/17th February, 2010. Accordingly, the appointment of the petitioners as Presiding Officers in the Polling Stations are set aside and quashed.
17. The intervenor filed CAN 1 of 2026, but this Court finds that the CAN application is not maintainable in the present application. Accordingly, **CAN 1 of 2026** is dismissed. However, the dismissal of the CAN application will not prevent the petitioner to take appropriate steps in accordance with law.
18. Learned counsel for the Election Commission of India/District Election Officer submits that the petitioners are the society, but many of the members of

the society have already joined their training and ready and willing to perform their duty. Accordingly, this Court is of the view that if any of the members of the society already undergone training and is ready and willing to perform their duty as Presiding Officer, this order will not prevent them to proceed with the appointment as Presiding Officer of the election duty. It is further made clear that in the reply of the show-cause notice, the petitioners have stated that for smooth conduct of the West Bengal Legislative Assembly Election, 2026 they express their willingness to perform any election duties which commensurate with their rank and salary in conformity with the orders issued by the Election Commission of India and accordingly, the Election Commission of India intends to take the service of the petitioners, the Election Commission of India is free to pass an appropriate order for appointing the petitioners as per their rank, salary and in conformity with the circular dated 16/17th February, 2010.

19. This order will not affect the members of the society who have already undergone training in terms of the order issued by the Election Commission of India.
20. **WPA 9020 of 2026** is disposed of.
21. Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance with all the necessary formalities.

(Krishna Rao, J.)