

08.01.2026
Sl No.A 686
Ct. No.15
S.A.

WPA 16418 of 2024

Sumitra Mandal (Sarkar)

-vs-

The State Election Commission & Ors.

Mr. Gangadhar Das
Mr. Tanmoy Chattopadhyay
...for the petitioner
Mr. Sirsanya Bandopadhyay
Mr. Debopriyo Karan
...for the State

Ms. Sonal Sinha
Mr. Sandipan Das
...for the State Election Commission

The petitioner was a candidate in the Panchayat Election, 2023 for Binodpur II Gram Panchayat under the English Bazar Panchayat Samity, Malda.

Seeking recounting of votes, the petitioner filed WPA 16977 of 2023 before this Court. A Co-ordinate Bench of this Court, by an order dated October 3, 2023, referred the matter to the State Election Commission for taking a decision with regard to the discrepancy noticed by the respondent authorities.

In compliance with the said order dated October 3, 2023, the matter was taken up by the State Election Commission. After affording an opportunity of hearing to all concerned, including the petitioner, the Commission passed a detailed and reasoned order dated January 4, 2024, thereby rejecting the claim of the petitioner.

The relevant portion of the said order is extracted hereinbelow:

“Upon due consideration of the facts and circumstances and available records, it becomes apparently clear that there was neither any manipulation nor any electoral malpractice either on the day of poll or on the day of counting which would vitiate the counting process or that re-counting should be allowed. The discrepancy in the number of ballot papers found in the ballot box and those mentioned in the Form-18 could have been due to a factor that the ballot papers were not put in ballot box or due to putting the ballot paper in the wrong ballot box by some of the electors. Therefore, based on the records and submissions by the parties during hearing, the Commission could not ascertain conclusively the reasons behind the same.

Let the order of this copy be served upon all the concerned.”

Learned counsel appearing for the petitioner seeks to assail the order passed by the State Election Commission on various grounds. It is submitted that the Election Commission, in fact, arrived at a finding regarding discrepancy in the counting of votes, as reflected in paragraph (h) of the order dated January 4, 2024.

This Court, however, is not inclined to entertain the present writ petition. There is no scope for this Court, in exercise of its writ jurisdiction under Article 226 of the Constitution of India, to delve into disputed

questions of fact, as sought to be urged by the learned counsel for the petitioner. Such factual issues could have been adjudicated only by way of an election petition under Section 79 of the West Bengal Panchayat Election Act, 2023.

Ms. Sonal Sinha, learned counsel appearing for the State Election Commission, has rightly placed reliance upon the judgment of a Division Bench of this Court in MAT 2137 of 2023 (*State Election Commission & Anr. vs. Nimai Ray @ Nimai Roy & Ors.*), delivered on May 22, 2024 in this regard.

In view of the aforesaid, this writ petition is not entertained.

This order, however, shall not preclude the petitioner from availing of such remedy as may be available to him in accordance with law.

Accordingly, **WPA 16418 of 2024** stands dismissed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)