

16.09.2025
Item No
AD 9-12
Saswata

WPA 21198 of 2025
IA NO: CAN 1 2025
SWAPAN SANTRA AND ORS.
VS
STATE OF WEST BENGAL AND ORS.

With

WPA 19606 of 2025
IA NO: CAN 1 2025
PRADIP KUMAR BERA AND ANR.
VS
THE COOPERATIVE ELECTION COMMISSION, WB
AND ORS.

Mr. Deepnath Roy Chowdhury
Mr.Asif Hussain
Mr. Ovik Sengupta
Ms. Puja Banerjee
...For the petitioner in WPA 21198 of 2025

Mr. Srijan Nayak
Ms. Rituparna Maitra
...For the Cooperative Election Commission

Mr. Tanoy Chakraborty
Mr. Saptak Sanyal
...For the State in WPA 21198 of 2025

Mr. Ankit Sureka
Mr. Biplob Das
Mr. Asis Dutta
...For the respondent no. 2

Mr. Raja Saha
Mr. Sanjay Mukherjee
Ms. B. Roy
...For the Society

Mr. Sabyasachi Chatterjee
Mr. Subhajit Panja
...For the petitioner in WPA 19606 of 2025

Mr. Subhajit Panja
...For the interveners in WPA 21198 of 2025

1. The instant writ petition has been filed, inter alia, praying for a direction upon the respondent nos.

3 to 5 to quash the election of delegates held on 27th July 2025 as also challenging the order dated 29th August, 2025 passed by the Secretary, Cooperative Election Commission being the respondent no.3.

2. The connected application in WPA 19606 of 2025 is for recalling of the order dated 29th August, 2025. Considering the nature of reliefs sought for, all the above matters are taken up together.

3. I find that the principal grievance of the petitioners is directed against the order dated 29th August 2025 passed by the Secretary, Cooperative Election Commission, West Bengal. The above matters have a chequered history. Records would reveal that initially an Assistant Returning Officer was appointed on 28th June 2024 to hold the election of the respondent no. 6 / cooperative society (hereinafter referred to as the “society”). Although, the matter had proceeded up to the stage of publication of the voters list, however, at the instance of the petitioners in WPA 15797 of 2025 and upon considering their grievances that several deceased members and employees of the society who are ineligible to participate in the election process having regard to the provisions of Section 63(2) of the West Bengal Cooperative Societies Act, 2006 (hereinafter referred to as the “said Act”), had been included in the voters list, this Court without

interfering with the election process as scheduled, had by order dated 22nd July, 2025 directed the Cooperative Election Commission, West Bengal to ascertain upon giving opportunity of hearing to all concerned on the basis of disclosure made in the writ petition and/or further disclosures to be made whether the names of the employees of the society have been included in the voter list and in the event of such inclusion, strike off their names, with a further direction that if the Cooperative Election Commission, West Bengal is satisfied with regard to the genuinity of the death certificates, of the names of the deceased voters as included in the voters list, by noting the objection, to strike off such names as well.

4. The petitioners claim to be members of the above Cooperative Society and had filed their nomination for contesting the delegate elections.

5. The parties at this stage would jointly submit that the Assistant Returning Officer, pursuant to the aforesaid order dated 22nd July, 2024 had embarked upon an enquiry and had deleted the names of certain employees and certain deceased members, though, Mr. Roy Chowdhury, learned advocate appearing for the petitioners in the instant writ petition would complain that although, particulars of the deceased members and the employees had been disclosed by the petitioners, the Assistant Returning Officer did not

act on the basis thereof. Following the aforesaid correction and publication of voter list on 26th July 2025, the election of delegates of the society had been completed on 27th July 2025.

6. Mr. Roy Chowdhury submits that though the election of delegates had been completed, however, since the petitioners were aggrieved by the finalization of the voter list, the petitioners had raised a dispute case before the Cooperative Election Commission, West Bengal in terms of Regulation 3(35) of the West Bengal Co-operative Election Commission Regulations, 2012 on 13th August 2025. The same was registered as Dispute Case No. 24/CEC of 2025.

7. During pendency of the aforesaid dispute case, it appears that another set of members who had contested the delegate elections and elected as delegates, had approached this Court in WP 19606 of 2025 with a grievance that notwithstanding completion of the election process of the delegates, no steps were being taken by the Cooperative Election Commission, West Bengal to complete the election of Board of Directors of the society.

8. Incidentally, when the writ petition was moved, no disclosure was made as regards the pendency of the above dispute case before the Cooperative Election Commission, West Bengal.

9. By an order dated 26th August 2025, this Court after hearing the parties in WP 19606 of 2025 had directed the Cooperative Election Commission, West Bengal to complete the entire process of election including the election of Board of Directors and Office Bearers in accordance with law, as expeditiously as possible preferably within a period of 4 weeks from the date of communication of this order.

10. It is, however, strange enough to note and as pointed out by Mr. Roy Chowdhury that the Cooperative Election Commission, West Bengal having regard to the order dated 26th August 2025 passed by this Court, thought it fit to dispose of a pending disputed case by recording as follows: -

“ Hearing started. Attendance is attached in separate sheet.

Ld. Advocate of the plaintiff submitted that there are names of the Employees of the Society as members but they have no voting right under U/S-63/(2) of the WBCS Act, 2006. If names of the employees are removed from the list of the members then no. of delegates would be changed accordingly.

The R.O. submitted that though the employees having no voting right but names of the members should not be removed from the member list.

Having heard the plaintiffs and the defendants this Commission is of the views that the Election of Delegates was held complying the Order passed by the Hon'ble High Court Calcutta, on 22.07.2025 icw the WPA No. 15797 of 2025 and subsequently Election of BOD and the election of office bearers is to be held also complying the Order passed by the Hon'ble High Court Calcutta, on

26.08.2025 icw the WPA No. 19606 of 2025 within 28 days from the date of communication of the Order. Now this Commission is not in a position to hear the instant dispute and passing any Order further in this respect.”

11. Mr. Roy Chowdhury is aggrieved by the aforesaid rejection of the petitioners’ application without a decision thereon. He submits that the dispute case be restored and the election of the Board of Directors be rescheduled after the decision of the election dispute. According to Mr. Roy Chowdhury, the order dated 26th August, 2025 had been obtained by suppression of fact and without notice to the petitioners.

12. Mr. Chatterjee, learned advocate representing the writ petitioners in WPA 19606 of 2025 and CAN 1 of 2025 would like to submit that any order for rescheduling of the Board of Directors election would seek to interfere with the rights of the elected delegates and no such order can be passed in an application under Article 226 of the Constitution of India once, the election for Board of Directors has been declared.

13. Having heard the learned advocates appearing for the respective parties I find that on 26th August 2025 when the writ petition being WPA 19606 of 2025 was moved, this Court was not apprised of the fact that a dispute was pending consideration before the Cooperative Election Commission, West Bengal. Be that as it may, the order dated 26th August 2025 only

directed the Cooperative Election Commission, West Bengal to conclude the election process in accordance with law as expeditiously as possible preferably within the period as indicated therein. Such order did not prevent the Secretary, Cooperative Election Commission to conclude the hearing of the dispute pending before it or abruptly conclude the same in the manner the same has been done.

14. The powers of this Court under Article 226 of the Constitution of India in my view are wide enough to correct any error or wrong especially when an order has been obtained by suppression and without notice to the petitioners. Further, the matter of disposal of the dispute by the Secretary, Cooperative Election Commission also appears to be not only irregular but illegal. The Court had never directed the Secretary, Cooperative Election Commission to conclude the election of the Board of Directors without disposing of the pending dispute. If the petitioners have been wronged on the basis of an irrational view taken by the Secretary, Cooperative Election Commission, this Court has ample power to correct such wrong. Simply because the election for Board of Directors has been declared the same does not take away the authority of this Court to exercise jurisdiction. Consequentially,

submission of Mr. Chatterjee appears to be misconceived, accordingly, the same is rejected.

15. Independent of the above, although, Mr. Nayak, learned advocate appearing for the Cooperative Election Commission submits that the dispute has been formally closed, I am of the view that having regard to the facts narrated above, it is unfortunate that an order of this nature has been passed. The Cooperative Election Commission, West Bengal was directed to act in accordance with law and not de hors thereto.

16. Having regard to the above, the order dated 29th August 2025 cannot be sustained and the same is accordingly set aside. The matter is remanded back to the Cooperative Election Commission, West Bengal for a fresh decision on the dispute which was disposed of by the Cooperative Election Commission, West Bengal by its order dated 29th August 2025.

17. It is expected that decision in this regard shall be taken by the Cooperative Election Commission, West Bengal within a period of 2 weeks from the date of conclusion of hearing or on or before 10th October 2025, whichever is later. The election of Board of Directors should immediately follow thereafter by publishing a fresh schedule in accordance with law.

18. The application being CAN 1 of 2025 seeking recall of the order dated 26th August, 2025 in WPA 19606 of 2025 is disposed of in terms of the above order.

19. In view of the disposal of the above writ petition, the application being CAN 1 of 2025 in WPA 21198 of 2025 filed at the instance of the interveners Panchanan Patra and Pradip Bera for addition of party does not call for any order. The application is thus, disposed of.

20. All parties shall act on the basis of the server copy of this order duly downloaded from this Court's official website.

(Raja Basu Chowdhury, J.)