
(2018) 06 CAL CK 0063
In the Calcutta High Court
Case No : W. P. 28336(W) of 2016

Sudeb Nandi And Ors.

APPELLANT

Vs

State Of West Bengal & Ors.

RESPONDENT

Date of Decision : 29-06-2018

Acts Referred:

Citation : (2018) 06 CAL CK 0063

Hon'ble Judges : RAJASEKHAR MANTHA, J

Bench : Single Bench

Advocate : Ritzu Ghosal, Debleena Sanyal, Sourabh Maitra, Pradip Kumar Roy, Shrabani Sarkar, Srijan Nayak, Rituparna Maitra, Raju Saha

Judgement

The facts of the instant case reveal a sordid saga of flagrant violation of orders of court, gross impropriety and total abdication of responsibilities by

the Cooperative Election Commission as also the authorities under the West Bengal Cooperative Societies Act, 2006. By an order dated 20th

September, 2016 passed in W. P. 20717(W) of 2016 in Kartick Chandra Mondal Vs. The State of West Bengal and Ors., a writ petition was disposed

of by directing the Co-operative Election Commission to expeditiously hold elections to the Board of, â??Bhagirathi Co-operative Milk Producersâ??

Union Ltd.â?? as per an earlier order dated 22nd July, 2016 passed in W. P. 16180(W) of 2015.

Pursuant to such order and the election process 11 nominations filed, were found valid by the concerned A. R. O. By a further order dated 3rd

October, 2016 passed in W. P. 23156(W) of 2016, the Election Commission was once again directed to take steps to complete election in terms of the

existing order dated 22nd July, 2016. Not only has the Election Commission not completed the election within the time stipulated by Court, but by an

order dated 5th September, 2016, Special Officers came to be appointed over the Society by the Government of West Bengal.

The Special Officers were changed from time to time and currently the District Magistrate, Murshidabad is functioning as Special Officer on the said

society. This Court is of the view that appointment of Special Officers has been done to frustrate the election process and contumaciously negate orders of this Court.

Tales are being spun today by both the State Authorities as also the Election Commission to explain as to why election could not be conducted. The

argument being advanced by the State is that the members eligible to vote in the election of the aforesaid Society are about 300 in number. The

Commission however says that such members should be in the region of 1100. The State further submits that the writ petitioners whose nominations

were found valid by the A. R. O in the year 2016 were all persons who were engaged in supplying contaminated milk to the Society. Hence, they

were ineligible to participate as members as per the provisions of the Society's Bye-Laws.

However, the State has not been able to indicate as to whether any complaints have been lodged against the said persons before the police authorities.

No documents in that regard have been produced before this Court. The plea of the State, therefore, can safely be held as specious and made for

collateral purposes. The alleged ineligibility of the petitioners or the said 9 persons, who filed nominations in 2016, was also not brought to the notice of

the court except to suggest an objection has been filed by one persons out of 1100 members who lodged a complaint as regards such ineligibility with

the Election Commission.

This Court is appalled at the conduct of the State Authorities as also the State Election Commission. The Election Commission submits before me that

unless a proper list of voters is supplied by the Society under the Special Officers, their hands are tied. The Election Commission however has not

chosen to bring the issue to the notice of the court to seek a formal extension of time to comply with the court's order. The Election Commission

in response to and as part of a relay race with the State Authorities has conveniently chosen to flagrantly violate the orders of court.

This Court records deep anguish at the conduct of the State Authorities as also

the Co-operative Election Commission. However, as the authorities say that there is doubt as regards the actual number of members, this Court has been left with a fait accompli. Without going into the measures required to be taken against the persons concerned at this stage, this Court directs the District Magistrate, Murshidabad, Special Officer appointed over the said Society to forthwith and not later than a period of 15 days from date submit a final list of all eligible members for the purpose of Election to be conducted for the Board of Directors of the aforesaid Society.

The petitioners as also the private respondents shall be entitled to look into the said list and make suggestions to the District Magistrate. The list shall be submitted to this Court on the 23rd July, 2018. Further directions shall be considered on the said adjourned date when the matter shall be taken up.

The Cooperative Election Commission shall suggest and indicate to court on the adjourned date a fixed schedule of election which shall include all stages to be complied with under the W. B. C. S Act, 2006. Let this matter stand adjourned until 24th July, 2018.