

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
(PUBLIC INTEREST LITIGATION)
APPELLATE SIDE**

RESERVED ON: 15.06.2023
DELIVERED ON: 15.06.2023

CORAM:

THE HON'BLE MR. CHIEF JUSTICE T.S. SIVAGNAMAM

AND

THE HON'BLE MR. JUSTICE UDAY KUMAR

W.P.A.(P) 298 OF 2023

SUNIT SARKAR.

VERSUS

COMMISSIONER, WEST BENGAL

STATE ELECTION COMMISSION AND ANR.

Appearance:

Mr. Chittaranjan Panda, Adv.

Mr. Harisankar Chattopadhyay, Adv.

.....for the Petitioner

Mr. Jayanta Mitra, Sr. Adv.

Mr. Kishore Datta, Sr. Adv.

Ms. Sonal Sinha, Adv.

Ms. Sanjukta Samanta Adv.

.....For the State Election Commission

Mr. Kalyan Bandopadhyay, Ld. Senior Advocate,

Mr. Anirban Ray, Learned Government Pleader

Mr. Sirsanya Bandopadhyay, Adv.

Mr. Arka Kumar Nag, Adv.

..for the State.

JUDGMENT

(Judgment of the Court was delivered by T.S. Sivagnanam, CJ. and Uday Kumar, J.)

1. This writ petition has been filed by a public spirited person who is permanently employed by the State Government as Shiksha Bandhu (CLRC Coordinator). The prayer sought for in the writ petition is for issuance of writ of mandamus to allow the Shiksha Bandhus also to contest in the ensuing panchayat Election. It appears that a notification was issued barring the Shiksha Bandhus from participating in the ensuing Panchayat Election by way of a notification issued on 27.05.2022, therefore, the Shiksha Bandhus have submitted a representation and last of which was submitted to the State Election Commission on 21.04.2023 for withdrawal of the notification and the circular by which the Shiksha Bandhus were made ineligible to offer themselves as a candidate for the ensuring Panchayat Elections. When the writ petition was moved, Ms. Sonal Sinha, learned Standing Counsel for the State Election Commission was directed to obtain instructions in the matter. When the matter was heard subsequently, the learned Standing Counsel for the Commission, produced copy of the proceedings dated 14.06.2023 which reads as follows:

WEST BENGAL STATE ELECTION COMMISSION
18, Sarojini Naidu Sarani, (Rawdon Street)
Kolkata-700 017
Ph.: 2280-5277; FAX-2280-7373

No. 1151 (22)-SEC/6D-12/2023

Date: 14.06.2023

From: *The Secretary*
West Bengal State Election Commission

To : *The District Panchayat Election Officer*
&

District Magistrate

*Alipurduar/ Bankura/ Birbhum/ Cooch Behar Dakshin Dinajpur
Darjeeling/ Hooghly/ Howrah/ Jalpaiguri Jhargram/ Kalimpong/ Malda/
Murshidabad/ Nadin/ North 24-Parganas/ Paschim Medinipur/ Purba
Medinipur/ Purba Bardhaman/ Paschim Bardhaman/ Purulia/ South 24-
Parganas/ Uttar Dinajpur*

*Sub: Eligibility and ineligibility for candidature in connection with
Panchayat General Elections, 2023*

Ref: No. 355(22)-SEC/6D-12/2023 dated 12.04.2023

Madam/ Sir,

*In partial modification of Commission's No. under reference I am directed to
state that Siksha Bandhus and Voluntary Resource Persons under School
Education Department are eligible to contest Panchayat Elections.*

All the Panchayat Returning Officers be informed accordingly.

Yours faithfully,

Secretary
West Bengal State Election Commission

2. In terms of the above communication, the State Election Commission has stated that Shiksha Bandhus and Voluntary Resource Persons under School Education Department are eligible to contest Panchayat elections and all Panchayat Returning Officers were informed accordingly.
3. The learned Advocate appearing for the petitioner submitted that they came know about the notification at 5:30 P.M. on 14.06.2023 and there is hardly any time left for the Shiksha Bandhus who are numbering more than 2500 to file their nomination and, therefore, it is prayed that the date of filing the nomination be extended.
4. We have heard the learned Standing Counsel on the above submissions.
5. Considering the peculiar facts and circumstances of the case and taking note of the fact that the State Election Commission had made the Siksha Bandhus and Voluntary Resource Persons under School Education Department to be eligible to contest the Pachayat Elections by notification issued only on 14.06.2023 which is said to have been received by the petitioner only at 5:30 P.M., we are of the view that for the Shiksha Bandhus and Voluntary Resource Persons alone the time for filing the nominations shall be extended till the close of hours on 16.06.2023. This direction shall be immediately communicated by the State Election Commission to all the Panchayat Returning Officer with a direction to accept nominations submitted by the Shiksha Bandhus and Voluntary Resource Persons under School Education Department till the close of hours on 16.06.2023. This order has been passed considering the peculiar facts and circumstances of the case and

also taking note of the submission in the earlier writ petition that the Commission was willing to postpone the date by one day. This order shall be complied with forthwith. The writ petition stands disposed of accordingly.

(T.S. SIVAGNAM, CJ.)

(UDAY KUMAR, J.)

(P.A- PRAMITA/SACHIN)

