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WPO/29/2024  
IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

ANIMESH BHATTACHARYA  
VS  
THE BAR ASSOCIATION HIGH COURT AT CALCUTTA AND ORS.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 2<sup>nd</sup> February, 2024.

*Appearance:*

*Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.*

*Mr. Arka Maiti, Adv.*

*Mr. Gulsanwara Pervin, Adv.*

*...for the contesting candidate*

*Mr. Billwadal Bhattacharyya, Adv.*

*Mr. Srijib Chakraborty, Adv.*

*Mr. Rivu Dutta, Adv.*

*Ms. Amrita Pandey, Adv.*

*...for the intervenor candidate/*

*Falguni Bandopadhyay & Sukanta Ghosh*

*Mr. Ananta Kr. Shaw, Adv.*

*Mr. Lalmohan Bose, Adv.*

*Mr. Suman Ghosh, Adv.*

*...for the respondent nos.1, 2 and 3*

The Court: In view of the extreme urgency pleaded, the matter is being taken up at 1:36 pm (during recess hours) today. Prior to that, a notice has been

circulated in the Bar Association indicating that Original Side matters would be taken up at 1:25 p.m. in this Court.

A receipt of service of notice regarding the matter being mentioned filed today be kept on record.

It is submitted on behalf of the writ petitioner that certain members of the Bar Association of this court, while casting their votes in the impugned election of the bar association, discovered that the serial number of the concerned voter is being depicted not only in the counter foil of the ballot papers which is returned to the voter but also in the ballot paper, itself along with the names of the candidates.

It is submitted that such a situation would entail that the identity of the particular voter would be disclosed, which would frustrate palpably the very purpose of holding the vote by secret ballot.

It transpires from the arguments made that indeed, in the event there is veracity in the said submissions, the very purpose of the elections would be frustrated and there would be apprehension of personal vendetta being taken out against the individual voters, if their identities are disclosed.

At this juncture, learned counsel appearing for some of the candidates who have participated in the present election, seek to intervene and controvert the allegations made.

It is contended by learned counsel that the system followed is equivalent to that followed in the General Elections prior to the EVM process having set in.

It is submitted that there is no way to trace the serial number of the ballot paper to the individual who has cast the vote. It is submitted that the said serial

number has nothing to do with the membership numbers of the concerned voters. Learned counsel submits that at the juncture when the ballot paper is torn out from a ballot paper book, the serial number of the ballot paper is depicted in both the ballot paper as well as the said book in order to keep a tab on whether the voting process actually took place and how many voters actually cast their votes, for future reference if there is any challenge made before any competent forum.

Hence, it is reiterated that the serial numbers of the ballot papers cannot be traced back to the individual voters.

Learned counsel appearing for the petitioner, at this juncture, refutes such contention and submits that at the time of tearing of the ballot papers from the ballot paper book, a signature has to be put by the concerned voter in the said ballot paper book against the serial number. Hence, subsequently, the said ballot paper of particular individual voters can be traced back to the said individual voters.

Sufficient cloud has been cast with regard to whether the serial numbers appearing in the ballot papers can be used, if so intended, to trace back the same to the individual voter who cast the vote by corroborating the same with the ballot paper book which is supposed to be retained by the Election Officer.

Hence, as suggested by some of the learned advocates appearing for the intervenors, it would only be appropriate for the ends of justice if the said ballot books from which the ballot papers are torn out, containing the signatures of the individual voters against each serial no., are kept sealed and preserved by the Election Officer and at the end of the election process is submitted for being

preserved by the Registrar General of this Court, which will in turn be subject to the final outcome of the writ petition.

Accordingly, the Election Officer is directed to take in his custody all the ballot books from which the ballot papers have been torn out for the purpose of the present ongoing election, which carry signatures of the individual voters along with the serial numbers, and retain the same with him in sealed cover/box. The said sealed box/cover containing the said counter foils of the ballot books, containing signatures of the voters against the serial nos. of the ballot papers, shall be deposited by the Election Officer to the Registrar General of this Court at the end of the election process, immediately after the completion of the polling process today, preferably by 7 p.m. this evening.

Such deposit shall be subject to further orders and the final outcome of the writ petition.

The parties as well as the learned Registrar General shall act on the written communication by the learned advocates coupled with a server copy of this order without insisting upon prior production of the certified copy of the same.

Let a copy of this order be forwarded immediately to the learned Registrar General in order to ensure compliance of the same.

Liberty is granted to the writ petitioner to file appropriate interlocutory application in connection with the main writ petition containing the allegations made today before this Court, with a copy to the learned advocate appearing for the respondents, for being taken up along with the main writ petition.

(SABYASACHI BHATTACHARYYA, J.)