

tkm/sg/aritra  
Sl.No.183.

Form No. J(2)

**In the High Court at Calcutta  
Constitutional Writ Jurisdiction  
Appellate Side**

Present: **The Hon'ble Justice Hiranmay Bhattacharyya**

**W.P.A.5108 of 2026**

**Chinmoy Mali  
Vs.  
State of West Bengal & Ors.**

For the petitioner : Mr. Billwadal Bhattacharyya, Sr. Adv,  
Mr. Anish Kr. Mukherjee,  
Ms. Megha Datta.

For the State : Mr. Vimal Kumar Shahi, Ld. AGP,  
Mr. Anubrata Santra

For the Co-operative  
Election Commission : Mr. Srijan Nayak,  
Ms. Rituparna Maitra,

For the respondent  
Nos 3-5 : Mr. Ankit Sureka,  
Mr. Biplab Das.

Heard on : 09.03.2026 & 10.03.2026

Judgment dictated  
in open Court on : 10.03.2026

**Hiranmay Bhattacharyya, J.:-**

1. The petitioner, who claims to be a member of Laujore Samabay Krishi Unnayan Samiti Ltd. (in short "LSKUS Ltd."), has approached this court primarily for a direction upon the Co-operative Election Commission to conclude the election of Board of

Directors of the said samiti and for quashing of the notice dated 23<sup>rd</sup> February 2026 issued by the Inspector of Co-operative Society, Rajnagar Development Block.

2. It is the specific case of the petitioner that the last election of the board of directors of the said society was held on December 17, 2017 and the tenure of the board of directors expired on December 16, 2022. It is further submitted in the writ petition that presently the 13<sup>th</sup> respondent i.e. is highest designated employee of the samiti is looking after the day-to-day activities of the said samiti in the absence of the board. The petitioner submits that the assistant returning officer issued a election notification dated 6<sup>th</sup> March 2025 fixing the dates for various stages relating to conduct of the said election. However, the election was adjourned until further orders vide notice dated 17<sup>th</sup> March 2025 issued by the Returning Officer. The Assistant Returning Officer issued a subsequent notice dated 12<sup>th</sup> August 2025 fixing the dates for various stages for conducting elections but the election was again adjourned until further orders by a subsequent notice dated August 28, 2025.
3. The petitioner states that he has come across a notice under memo dated 23<sup>rd</sup> February issued by the 6<sup>th</sup> respondent fixing a date of meeting in connection with office bearer election of the said samiti.
4. Challenging the said notice dated 23<sup>rd</sup> February 2026 and alleging inaction on the part of the Cooperative Election Commission in holding election to the said samiti, the petitioner has approached this court.

5. When this matter was taken up for hearing on 9<sup>th</sup> March 2026, a statement of fact along with bunch of documents were filed by Mr. Nayak, learned advocate appearing for the Cooperative Election Commission, which were taken on record.
6. On 9<sup>th</sup> March 2026, Mr. Bhattacharya submitted that though the notice dated 23<sup>rd</sup> February 2026 refers to the memoranda dated 18<sup>th</sup> February 2026 and 19<sup>th</sup> February 2026, the copies of such memoranda were not supplied to the petitioner.
7. Mr. Nayak supplied copies of the memoranda dated 18<sup>th</sup> February 2026 and 19<sup>th</sup> February 2026 to the learned advocate appearing for the petitioner, who sought time on that day to take instruction on the aforesaid documents.
8. When this matter is taken up for hearing today, Mr. Bhattacharya prays for leave to file a supplementary affidavit.
9. Such leave is granted.
10. Supplementary affidavit filed by the petitioner is taken on record. Copy of such supplementary affidavit has been supplied to Mr. Nayak, learned advocate appearing for the Co-operative Election Commission, Mr. Sureka, learned advocate for the Assistant Registrar of Co-operative Societies and the learned advocate for the State.
11. Mr. Bhattacharya submits that 13<sup>th</sup> respondent being the highest designated employee of the said samiti is managing the affairs of the Co-operative Society in view of the provisions laid down under section 29(8) of the West Bengal Co-operative Societies

Act, 2006 and in support of such contention he refers to a document annexed at page 14 of the supplementary affidavit.

12. Mr. Bhattacharya further submits that when the highest designated employee is managing the affairs of the said samiti, a nominated board could not have been constituted by the Registrar of the Co-operative Society. In support of such contention he places reliance upon the provisions laid down under sub-section (7) of section 29, section 35 (1A) and section 36(2) of the said Act.
13. Mr. Bhattacharya thus submits that since the highest designated employee is managing the affairs of the samiti, this court should pass an order of stay of operation of the order passed by the Registrar of the Co-operative Society nominating a board of directors.
14. Mr. Bhattacharya further submits that it is the duty of the Co-operative Election Commission to conduct the elections and the returning officer is expected to maintain liaison with the district administration for the maintenance of law and order during election of the Co-operative Society within its jurisdiction.
15. He further submits that the Co-operative Election Commission was obliged to conduct free and fair election to the said samiti and in support of such contention Mr. Bhattacharya places reliance upon the Regulation 3 of the West Bengal Co-operative Election Commission Regulation 2012.
16. Mr. Nayak submits that repeated attempts were made by the Co-operative Election Commission to conduct the elections, but

since the police authorities informed the Returning Officer that adequate police personnel may not be available on the scheduled date of nomination(s) as well as on the date of board of directors election of SKUS Ltd., the election had to be adjourned on two previous occasions. He further submits that in view of the ensuing assembly election to the State of West Bengal, at least two months' time after conclusion of assembly election be given to the Election Commission to conduct the said election.

17. Mr. Nayak places reliance upon the provisions laid down under Regulation 3(24) of the 2012 Regulation in support of his contention that the Returning officer has the power to adjourn the holding of poll in case of emergency.
18. Mr. Sureka, learned advocate for the Registrar of Co-operative Society submits that the nominated board was constituted in exercise of the power under section 29(7) of the 2006 Act. He places reliance upon the provisions laid down in sub-section (8) of section 29 in order to highlight the situations in which the highest designated employee of the Co-operative Society shall manage affairs of the Co-operative Society. He further submits that such a situation has not arisen in the case on hand for the highest designated employee of the samiti to manage the affairs of the samiti.
19. Learned advocate for the State, on instruction, submits that police authorities shall render necessary assistance and cooperation to the Co-operative Election Commission for the purpose of

conducting the election as per the schedule that may be announced by the Co-operative Election Commission.

20. In reply, Mr. Bhattacharya places reliance upon an order dated 9<sup>th</sup> December 2024 passed by the Hon'ble Supreme Court of India in IA no. 280246/2024 arising out of Special Leave to Appeal (C) no. 13916/2024 and submits that central para military forces may be deployed for the purpose of conduct of free and fair election of the said samiti.
21. Heard the learned advocates for the parties and perused the materials placed.
22. Section 36 of the 2006 Act provides for appointment of special officer. It specifically states that the State Government shall by notification appoint special officer from amongst its officers for managing the affairs of the Co-operative Society for a period not exceeding six months from the date of expiry of the term of the board. Sub-section (2) of section 36 states that the special officer appointed to manage the affairs of such Co-operative Society shall arrange for conducting the elections within the period specified in sub-section (1 ) and hand over the management to the newly elected board.
23. For the purpose of deciding the dispute in this case it would be relevant to take note of the provisions laid down under sub-section 7 and 8 of section 29 of the 2006 Act for which the same are extracted hereinafter :  
*“(7) If the election as referred to in the third proviso to sub-section (1A) of section 35 or in sub-section(2) of section 36 cannot be held owing to an order of any court or for any other reasons or if the directors of the board*

*elected in a general meeting cannot function owing to an order of any court or for any other reason, or if the elected directors of the board resign simultaneously, the Registrar may constitute a board of directors from amongst the members or delegates or representatives of the Co-operative Society in conformity with section 32 and the constituted board shall elect its office bearers from amongst themselves :*

*Provided that the board, so constituted, shall function till the directors of the board elected under this section assume charge*

*(8) if the board of directors, constituted under sub-section (7) cannot function owing to an order of any court or for any other reason, the chief executive officer of the co-operative society or where there is no chief ex-executive officer appointed by the State Government or the Registrar the highest designated employee of the co-operative society, by whatever name called, shall manage the affairs of the co-operative society till a board is in a position to function”.*

24. Section 35 of the 2006 Act provides for supersession and suspension of board and interim management. Sub-section (1A) of Section 35 enables the State Government to supersede the board and appoint one of its officers to manage the affairs of the Co-operative Society who shall be called the administrator for the period mentioned in Sub-section (1) of Section 35 by notification stating reasons therefor, if the State Government is of the opinion that the situations contemplated under Clause (a) to (c) of sub-section (1A) have arisen.

25. Third proviso to sub-section (1A) of Section 35 provides that the administrator shall arrange for conduct of election in a general meeting to be convened for the purpose and hand over the management to the newly elected board.

26. Sub-section (7) of Section 29 vests power upon the Registrar to constitute a board of directors from amongst the members or delegates or representatives of the Co-operative Society and the constituted board shall elect its office bearers from amongst themselves. Such power can be exercised by the Registrar if the situations contemplated in the first limb of Section 29(7) have arisen. Such power can be invoked by the Registrar if the election as referred to in the third proviso to Section 35(1A) or in sub-section (2) of Section 36 cannot be held. The expression “or” used repeatedly in the first limb of Section 29(7) makes all the situations contemplated therein disjunctive. Thus, even if one of the situations contemplated therein has arisen, the Registrar can exercise his power under Section 29(7) and constitute a board of directors.
27. No material has been produced before this Court to show that an Administrator has been appointed by the State Government under Section 35(1A) of the 2006 Act.
28. In the case on hand it is not in dispute that a Special Officer was appointed under Section 36 of the 2006 Act. However, within the specified period, elections could not be conducted.
29. As observed hereinbefore one of the situations as contemplated in the first limb of Section 29(7) has arisen. Thus, the provisions laid down under section 29(7) of the 2006 Act stands attracted to the case at hand.
30. Sub-section (7) of section 29 empowers the Registrar to constitute board of directors from amongst the members or

delegates or representatives of the Co-operative Society in conformity with section 32 and the constituted board shall elect its office bearers from amongst themselves.

31. Since the election could not be conducted within the specified period as observed hereinbefore, this Court holds that the registrar rightly exercised its powers under section 29(7) of the 2006 Act to constitute a board of directors.

32. Mr. Bhattacharya would vehemently contend that though the board of directors were nominated, but the office bearers could not have been elected as there is no provision in the statute enabling the nominated board to elect office bearers from amongst the members of the nominated board. This court is not inclined to accept such submission of Mr. Bhattacharya in view of the express language in that regard under sub-section (7) of section 29 of 2006 Act.

33. Sub-section (8) of section 29 deals with a situation if board of directors constituted under sub-section (7) cannot function owing to certain contingencies.

34. No case has been made out by the petitioner that the Board of Directors constituted under Sub-Section (7) of Section 29 cannot function owing to an order of the Court or for any other reasons. The preconditions for applying the provisions laid down under Section 29(8) have not been satisfied in the case on hand. In view thereof, the question of managing the affairs of the Society by the highest designated employees of the Society cannot and does not arise. Mere acceptance of a copy of the writ petition by the highest

designated employee who has been impleaded as 13<sup>th</sup> respondent herein endorsing his signature and seal on the learned Advocate's communication letter dated 2<sup>nd</sup> March, 2026, which is part of the supplementary affidavit (at page 14 thereof), does not imply that the 13<sup>th</sup> respondent is exercising its function of managing the affairs of the Cooperative Society in the light of the provisions laid down under section 29(8) of the 2006 Act.

35. The object of constitution of a Board under Section 29(7) would be that such Board shall function till the Directors of the Board are elected under section 29 and assumes charge. It is not in dispute that at present there is no elected Board of Directors of Samity.

36. By referring to clause (c) of Section 35(1A) of the 2006 Act Mr. Bhattacharya, learned advocate made a feeble argument that since the Co-operative Election Commission has failed to conduct election in accordance with the provision of the 2006 Act, the State Government is obliged to appoint an administrator.

37. Petitioner has not prayed for a direction upon the State Government to appoint an administrator. That apart, the State Government has a discretion to appoint an administrator subject to formation of opinion under Clauses (a) to (c) of Section 35(1A). The larger issue would be whether a mandamus could be issued directing the State to exercise its discretionary power in a particular manner. However, since this Court refused to interfere with the constitution of the

Board of Directors by the Registrar, this Court refrains from delving deep into such issue which has become academic.

38. For all reasons as aforesaid, this Court is not inclined to accept the submission of Mr. Bhattacharya that the constitution of the nominated Board of Directors as well as issuance of the notice dated 23<sup>rd</sup> February, 2026 fixing the first meeting of the Board in connection with the office bearer's election is in violation of any provision of the 2006 Act.

39. Now, the question arises whether the Cooperative Election Commission could have shirked off its responsibility of conducting the elections.

40. It appears from the materials disclosed in the writ petition that initially an election notification was published by the Assistant Returning Officer of 6<sup>th</sup> March, 2025 but the same was adjourned until further orders by a subsequent notice dated 17<sup>th</sup> March, 2025 only on the ground that there was an apprehension of serious breach of peace by the local police. Though the returning officer made another attempt to conduct the election by issuing a notification dated 12<sup>th</sup> August, 2025 but the same was also adjourned until further orders by the returning officer by a notice dated August 28, 2025 owing to non-availability of adequate police personnel from local police.

41. Regulation 3(24) of 2012 Regulation states that if at an election the proceedings at any polling station or at the place fixed for the poll are interrupted or obstructed by any riot or open

violence, or if at an election it is not possible to take the poll at any polling station or such place on account of any natural calamity, or any other sufficient cause, the Presiding Officer for such polling station or the Returning Officer having jurisdiction over such place, as the case may be, shall announce an adjournment of the poll to a date to be announced later, and where the poll so adjourned by a Presiding Officer, he shall forthwith inform the Returning Officer concerned.

42. The power to adjourn poll under Regulation 3(24) arises if at an election the proceeding at any polling station or at the place fixed for the poll are interrupted or obstructed by any riot or open violence, or if at an election it is not possible to take the polling station on account of any natural calamity or any other sufficient case.

43. In the case on hand, well before the date of polling the returning officer adjourned the conduct of election.

44. The grounds stated in the notices dated 17<sup>th</sup> March, 2025 and 28<sup>th</sup> August, 2025, in the considered view of the Court, do not fall under any of the contingency mentioned under Regulation 3(24) of the 2012 Regulation. The Regulation 3(3)(vii) of Regulation 2012 states that the Returning Officer shall maintain liaison with the district administration for maintenance of law and order during election of Co-operative Society within his jurisdiction.

45. The learned Advocate appearing for the State, on instruction, submits that the respondent nos. 10 and 11 shall render all

assistance to the Co-operative Election Commission for the purpose of conducting the election of the said samity. Such submission of the learned Advocate of the State is placed on record.

46. It is not the case of the Cooperative Election Commission or by any of the respondent authorities that the date for Assembly Election of the State of West Bengal has been announced. As rightly argued by Mr. Bhattacharya that on previous occasion, the assistant returning officer fixed dates in the manner that the elections can be completed with a period of 16 days from the date of issuance of a notification. Since the tenure of the last elected Board of Directors expired on 16<sup>th</sup> December, 2022 and more than three years have elapsed, this Court is of the considered view that, the Cooperative Election Commission should be directed to conduct the election of the Board of Directors at the earliest.

47. Mr. Bhattacharyya, learned advocate for the petitioner, sought for certain directions to be passed by this Court upon the respondent authorities similar to the directions passed by the Hon'ble Supreme Court in the order dated December 9, 2024.

48. In the said matter before the Hon'ble Supreme Court, an application was filed praying for a direction to restore the original polling booths, out of which 5 polling centers have been changed vide subsequent notifications.

49. Taking note of the special facts highlighted by the applicants therein, the Hon'ble Supreme Court passed certain directions by order dated December 9, 2024, in I.A. No.280246 of 2024.

50. In view of the stand taken by the Co-operative Election Commission and the State as recorded hereinbefore, this Court is inclined to dispose of the writ petition with the following directions.

- (i) The Assistant Registrar of Co-operative Societies and the Returning Officer, LSKUS Ltd. being the respondent No.5, the Assistant Returning Officer, Laujore Samabay Krishi Unnayan Samiti Ltd., being the respondent No.6 and the Co-operative Election Commission, West Bengal, being the respondent No.7 are directed to initiate the process for conducting the election of the Board of Directors of LSKUS Ltd. forthwith and conclude the election as expeditiously as possible but positively within a period of 4 weeks from the date of receipt of a server copy of this order.
- (ii) Upon issuance of the election notification, the respondent No.5 shall thereafter send a communication to the Superintendent of Police, Birbhum District and the Officer-in-Charge, Chandrapur Police Station, being the respondent Nos.10 and 11, respectively for necessary police assistance.
- (iii) Immediately upon a request being made by the 5<sup>th</sup> respondent, the respondent Nos.10 and 11 shall take necessary steps for deployment of adequate police personnel on the date(s) of nomination and the election of the Board of Directors as per the notification that may be published by the respondent Nos.5 to 7 and shall also render all assistance and co-operation to the

respondent No.5 to 7 for the purpose of free and fair elections to the Board of Directors of the said Samity.

51. With the aforesaid observations and directions, the writ petition stands disposed of.

52. It is however made clear that the board constituted by the Registrar shall exercise such function that are permissible under the 2006 Act and Rules framed thereunder.

53. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

**(Hiranmay Bhattacharyya, J.)**