

WP(C) 3563/2009

BEFORE

THE HON'BLE MR. JUSTICE IA ANSARI

Heard Mr. AM Mazumdar, learned Senior counsel for the petitioner, and Mr . MU Mahmud, learned Standing Counsel, Election Commission, appearing on behalf of the respondent Nos. 1, 4 and 5. Heard also Mr. P Roy, learned Senior Government Advocate, for the respondent Nos. 2 and 3.

Upon hearing the learned counsel for the parties and upon perusal of the materials on record, this Court finds that in similar circumstances, in WP(C) No. 3306/2009, certain directions were issued by the Court on 12-08-2009. Similar directions are called for in the present case too.

The observations made, and the directions given, by the Court, while making the order, dated 12-08-2009, aforementioned, were as under:

This writ petition under Article 226 of the Constitution of India has been filed challenging the election of the respondent No. 8, Shri Amrit Kumar Singha, as Ward Commissioner of Ward No. 2, of Hailakandi Municipal Board.

The sole prayer of the petitioner is that there was irregularity and anomaly in counting of votes and despite protest, the respondent No. 8 was elected as Ward Commissioner. Thereafter, the writ petitioner had submitted a written representation to the Returning Officer, Municipal Election, Hailakandi, on 04-08-2009. However, no decision on such representation has been taken.

Rule 85 of the Rules for Election of Commissioner of Municipal Board under the Assam Municipal Act, 1956 authorizes the Returning Officer/Magistrate to order for recounting of the ballot. Hence, the Returning Officer is directed to consider the prayer of the petitioner for recounting of the ballot at an early date. This decision shall be taken upon hearing the elected candidates. Till then, status quo with regard to the election of the Ward Commissioner for Ward No. 2 of Hailakandi Municipal Board, shall be maintained as to today.

With the aforesaid direction, the writ petition stands disposed of.

This writ petition too, now, is disposed of with directions as have been given in the order, dated 12-08-2009, aforementioned, in WP(C) No. 3306/2009