

WPA 14 of 2021

**Naba Kumar Mandal & Ors.
Vs.
The State of West Bengal & Ors.**

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Mr. Atarup Banerjee
Mr. Mrityunjoy Chatterjee
... For the Petitioners

Mr. Jayanta Kumar Das
Ms. Madhumanti Das
... For the Respondent no. 6

Mr. Partha Sarathi Bhattacharya
Mr. Nepesh Majhi
... For the Respondent no. 7

Mr. Sirsannya Bandyopadhyay
... For the State

The issue relates to removal of Sanchalaks of Samsi Gram Panchayet.

It appears from record that the Prescribed Authority and the Block Development Officer issued a notice in Form-2B authorizing one Mr. Anay Hazra to preside over the meeting for consideration of removal of four Sanchalaks. The date was fixed on 14th December, 2020 and time was fixed serially at 11.00 a.m, 12.30p.m, 2.00p.m and 3.30p.m.

The specific grievance of the petitioners is that the Presiding Officer was not available till 3.40 p.m when the petitioners were present at the venue. Thereafter the petitioners made a representation before the Block Development Officer as regards non-availability of the Presiding Officer. The petitioners state that later on they got the information that a separate Presiding Officer presided the meeting after 5.30 p.m and a resolution has been adopted.

The petitioners thereafter made a further

representation before the District Magistrate on 18th December, 2020.

The Prescribed Authority and the Block Development Officer has issued a notice under Form-1 for conducting the meeting for taking oath for constitution of Upa-samity. The date was fixed on 11th January, 2021 on 12.00 noon onwards.

The submission of the petitioners is that the Presiding Officer was changed and the timing of the meeting for removal of Sanchalaks was refixed. The change of the timing was not intimated to the petitioners and accordingly they could not be present at the said meeting.

Learned advocate representing the respondent no. 6 being the Pradhan submits that the petitioners were duly intimated as regards the change of the Presiding Officer and the timing of the meeting.

It has further been submitted that out of 22 members, 13 members were present and voted against the petitioners.

It has further been submitted that a resolution has already been adopted by the members who were present and voting and the said resolution is not under challenge in the instant writ petition. The members of the Panchayet who were present in the meeting have also not been impleaded in the instant writ petition as party respondents.

Learned advocate representing the respondent no. 7 being the Secretary of the Gram Panchayet submits that the petitioners were duly aware of the changed timing and regarding the change of the Presiding Officer. The petitioners intentionally and deliberately refrained from joining the said meeting. The issues as regards non-impleading of other members who were

present and non-challenging the resolution adopted in the said meeting has been reiterated by the respondent no. 7.

Learned advocate representing the State submits that as the prescribed Presiding Officer was not available a separate Presiding Officer was appointed to preside over the meeting and the changed timing of the meeting was duly intimated to the petitioners. Submission has been made that the technicalities of the notice ought not to be given importance as the meeting was carried forward by the majority members. All the respondents pray for dismissal of the writ petition.

A bunch of documents have been handed over to the court by the learned advocate representing the respondents. It appears from the said records that a notice was given to the Pradhan of the Samsi Gram Panchayet by the Block Development Officer, Ratua-I at 2.21 p.m on 14th December, 2020. It has been submitted that the same is regarding the change of the Presiding Officer and regarding the change of the timing of the meeting.

It further appears that the Block Development Officer has intimated the District Panchayet and Rural Development Officer on 14th December, 2020 regarding replacement of the Presiding Officer, where it has been mentioned that there was no trace of the Presiding Officer and as per the instruction of the higher authority a separate officer has been engaged to act as the Presiding Officer of the said meeting.

There is nothing on record to show that the changed timing was intimated to the petitioners so that they could participate in the said meeting at the changed timing fixed by the competent

authority.

A further point has been raised by the petitioners regarding fixing of the changed timing. A subsequent notice under Form-2B which was issued shows that the timing has been fixed at 3.00 p.m for removal of all the four Sanchalaks.

Reliance has been placed on the proviso of Rule 22(4)(f) of the Panchayet (Constitution) Rules, 1975 which mentions that if the meeting is convened to consider the motion to remove more than one Sanchalaks, motion shall be taken up one after another in the same order, as mentioned in sub-section (2) of Section 32A.

The earlier notices which were given, mentioned distinct separate timings for removal of the Sanchalaks. In the subsequent notices, which were issued, the meeting was fixed up at 3.00 p.m for removal of all four Sanchalaks. The same, in my opinion, appears to be a contrary to the provision of law.

In that view of the matter, the Block Development Officer being the Prescribed Authority is directed to conduct a fresh meeting, strictly in accordance with law.

Upon submission of all the parties and for convenience of all the members, the date of the meeting is fixed on 21st January, 2021.

Timing of the meeting shall be fixed by the Block Development Officer and he shall formally intimate the same to all the members.

The decision taken by the Presiding Officer on the 14th December, 2020 is accordingly set aside.

The Officer-in-Charge of Ratua Police Station is directed to ensure that there is adequate police protection at the venue of the meeting for the purpose of maintaining law and order at the time

of conducting the election at the said venue.

WPA 14 of 2021 stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

(Amrita Sinha, J.)