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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 282 of 2021

With

CAN 1 of 2021

(Via Video Conference)

Rekha Tikadar (Sarkar) & Ors.

Vs.

The State of West Bengal & Ors.

Mr. Debabrata Saha Roy,

Mr. Abhijit Ghosh,

Mr. Subhankar Das,

Mr. Neil Basu

... For the applicants in
CAN 1 of 2021.

Mr. Sirsanya Bandopadhyay,

Mr. Subhendu Sengupta

... For the State.

The affidavit-in-opposition filed by the respondent no.3, in terms of the order dated 7th January, 2021 and 5th May, 2021 filed in Court today is taken on record.

It is submitted on behalf of the State respondents that in compliance with the order dated 5th May, 2021 a copy of the affidavit-in-opposition was served on the learned advocate for the petitioners. However, by a return mail dated 6th May, 2021, the learned advocate, Ms. Sayani Das, representing the petitioners has informed the advocate for the State respondents that she has no instruction to appear on behalf of the petitioners. In fact, by an electronic mail dated 5th May, 2021, the

advocate for the applicants (respondents no. 7 to 16) had also served a copy of the affidavit-in-opposition on the learned advocate for the petitioner which was served by the State respondents upon the said learned advocate. No response has been received to such e-mail of the learned advocate for the respondents no.7 to 16. Several opportunities have been given to the petitioners through their advocate to represent at the time when the matter is taken up. The matter was adjourned on 3rd May, 2021 as also on 5th May, 2021 to enable the petitioners to represent their case, particularly in view of the application made by the respondents no.7 to 16 for vacating the order dated 7th January, 2021. The petitioners remain unrepresented even today.

It appears that members of Madanabati Gram Panchayat of Bamangola Panchayat Samiti expressed no confidence against petitioners no.1, 2, 3 and 4. The petitioners no.1 and 2 are the members of Nari Sishu Unnayan O Samaj Kalyan Upa Samity. The petitioner no.3 is a member of Sikshao Janaswasthya Upa Samity. The petitioner no.4 is the member of Shilpo O Parikatham Upa Samity of the said Panchayat. Since the majority of the members expressed no confidence against the petitioners, and requested for convening a meeting, a meeting was called on 22nd December, 2020 by the Prescribed Authority and the Block Development Officer, Bamangola Development Block, Malda, by a

notice dated 9th December, 2020 to decide on the no confidence motion brought against the petitioners. The said meeting was, however, cancelled. A subsequent meeting for the same purpose was scheduled to be held on 8th January, 2021 in terms of a notice dated 29th December, 2020 issued by the Prescribed Authority and Block Development Officer, Bamangola Development Block, Malda. The second notice dated 29th December, 2020 was challenged in the writ petition.

On 7th January, 2021 an interim order was passed postponing the meeting scheduled to be held on 8th January, 2021, mainly on the ground that the reasons for cancelling the previous meeting scheduled to be held on 22nd December, 2020 were not explicit in the subsequent notice dated 29th December, 2020.

The respondents no. 7 to 16 have taken out an application, being CAN 1 of 2021 filed on 12th April, 2021 for vacating the interim order so that a fresh meeting can be convened to decide on the no confidence motion. The respondents no.7 to 16, being the applicants in the vacating application had on 5th May, 2021, in fact, submitted that instead of passing orders in the vacating application, the main writ petition can be allowed so that fresh steps for holding the meeting can take place to remove the present stalemate condition in the concerned Gram Panchayat.

It appears from the affidavit-in-opposition filed by the respondent no.3 that the meeting scheduled to be held on 22nd December, 2020 had to be cancelled as there was a likelihood of occurrence of an untoward incident as also deterioration of law and order situation in the locality over the issue for which the meeting was called. The Prescribed Authority therefor sought for police help but the local police authorities citing reason that they have to deploy 3 officers (ASI), 7 constables including 1 lady constable and 6 home-guards and 8 civic volunteers at the said Panchayat Samiti in connection with opening of a Government tender on 22nd December, 2020, expressed their inability to provide further police assistance for the meeting also scheduled to be held on 22nd December, 2020.

Since the petitioners remain unrepresented despite repeated opportunities, I am inclined to take up the matter in their absence as the stalemate condition in the Panchayat cannot be allowed to be continued for a considerable period of time.

The petitioners have sought for a direction declaring the notice dated 29th December, 2020 to be void and to set aside the same. The said notice on expiry of 8th January, 2021, being the date scheduled for holding the meeting has spent its force for all practical purposes. It appears that by the order dated 7th January, 2021, the

views of the respondent no.3, being the Prescribed Authority, who had issued the notice dated 9th December, 2020 was sought for to ascertain the reasons for which the meeting scheduled on 22nd December, 2020 had to be cancelled. The reasons have now been provided in the affidavit. The petitioners by their conduct have expressed their disinclination to controvert the report forming part of the affidavit filed by the respondent no.3.

In such facts and circumstances, I am of the view that keeping the writ petition pending will not enure to the benefit of any of the parties. The applicants, being the respondents no. 7 to 16 in the writ petition have consented to the writ petition being allowed. The State respondents also do not oppose such prayer made by the respondents no. 7 to 16.

In these facts and circumstances, the notice dated 29th December, 2020 being devoid of reasons for cancelling the meeting scheduled on 22nd December, 2020, is quashed and set aside. The writ petition is allowed without any order as to costs.

Since the writ petition is allowed no order is required to be passed in the vacating application, being CAN 1 of 2021 and the same is accordingly disposed of.

I make it clear that I have not gone into the merits of the requisitions dated 9th December, 2020 for

convening the meeting pursuant to which the meeting was fixed but have set aside the notice dated 29th December, 2020 only on the ground that it did not disclose the reasons for cancelling the previous meeting scheduled on 22nd December, 2020.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

(Arindam Mukherjee, J.)