

25.03.2021
Item No.17
Crt.No.11
K.B.

**M.A.T. 272 of 2021
with
IA No. CAN No. 1 of 2021**

**Shri Mrityunjay Rajak & Another
-Versus-
Sudan Kaibarta and & Ors.**

Mr. Partha Pratim Deb Barman
Mr. Manoranjan Mahata
.... For the Appellants.

Mr. Sudipta Roy
Mr. Srinath Singha Roy
.... For the State-Respondents.

Since the instant appeal revolves on a point of law, no affidavits were invited and the instant appeal was taken up for hearing with the consent of parties by treating the same as on the day's list.

The appellants herein were the Respondent Nos. 9 and 10 to the writ petition.

The instant appeal is at the instance of the respondent No.1 herein and is directed against an order dated February 4, 2021 passed by an Hon'ble Single Judge in WPA 18309 of 2019. By the order impugned, a direction was passed upon the Block Development Officer, Baaghmundi Development Block and Prescribed Authority to consider and dispose of the representations made by the petitioner in the month of August, 2019 within a specified time.

Mr. Deb Barman, Learned Advocate for the appellants submits that the Block Development Officer and

the Prescribed Authority lacks jurisdiction to decide the objection with regard to the disqualification of members of Gram Panchayat in terms of the provisions of Section 8(c) of the West Bengal Panchayat Act, 1973.

He submits that since a direction has been passed upon the Block Development Officer and the Prescribed Authority to consider the representation and one of the points raised in such representation relates to the above provision, the direction to consider the representation amounts to conferring jurisdiction upon such authority to decide such issue when such authority lacks jurisdiction to decide the same.

We have heard the learned Advocates for the parties and have considered the materials on record.

By the order impugned the Hon'ble Single Judge directed the Block Development Officer and the Prescribed Authority to consider the representation made by the writ petitioner strictly in accordance with law within a stipulated time after giving an opportunity of hearing to the parties and all other necessary parties and to pass a reasoned order.

The apprehension of the Learned Advocate for the appellant that the appellant will not be entitled to raise the question of jurisdiction of such authority to decide at the time of hearing is without any basis.

It is, however, clarified that at the time of hearing before the authority the parties will be entitled to raise all

points including the point of jurisdiction of such authority to decide the issue relating to disqualification of members of a Gram Panchayat and if such question is raised, the Block Development Officer and the Prescribed Authority shall deal with such point of jurisdiction first before considering the objection on such issue on merits.

MAT 272 of 2021 with CAN 1 of 2021 stands thus disposed of.

There shall be, however, no order as to costs.

All concerned parties shall act in terms of the copy of the order downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Hiranmay Bhattacharyya, J.)

(Subrata Talukdar, J.)