

06.07.2021
Item No.1
Crt.No.11
K.B.

MAT 570 of 2021
with
IA No. CAN 1 of 2021

The Pradhan, Chaltabeira Gram Panchayet
-vs-
Chandi Charan Sardar & Ors.

(Via video conference)

Mr. Kallol Kumar Basu
Mr. Bratin Kumar Dey
Ms. Anjana Banerjee
.... For the appellant.

Mr. Alakesh Dalai
Mr. Supratick Syamal
..... For the respondent no.1.

Ms. Sonal Sinha
..... For the respondent no.5.

Party/parties is/are represented in the order of their name/names as printed above in the cause title.

Under challenge in this appeal is the order of the Hon'ble Single Bench dated 28th May, 2021 in the writ petition, being WPA 7601 of 2021. By the said order impugned, the Hon'ble Single Bench disposed of the writ petition by directing the Prescribed Authority (*PA*) and the Block Development Officer (*BDO*) of the concerned Panchayat to take necessary steps in response to the letter filed by the writ petitioner strictly in accordance with law within a specified period.

The letter in question is a notice signed by the writ petitioner/the respondent no.1 in this appeal as well as the other respondents to this appeal, the co-signatories

who are seeking the invocation of proceedings for removal of the writ petitioner/the present appellant as Prodhan of the said Gram Panchayat.

Mr. Basu, Learned Counsel appearing in support of the appeal as well as the connected application, submits that the Hon'ble Single Bench ought not to have disposed of the writ petition by the order impugned dated 28th May, 2021 without examining the completion of service of the copy of the writ petition on the present appellant, being a condition precedent imposed by the Hon'ble Single Bench itself by its previous orders in the writ petition dated 26th March, 2021 and 28th May, 2021.

It is further submitted that without service being so complete upon the present appellant, in the writ pending before the Hon'ble Single Bench the order impugned of the Hon'ble Single Bench suffers from inherent infirmity.

It is also submitted that the Notice for removal of the writ petitioner/the present appellant as Prodhan of the concerned Gram Panchayat, is *de hors* the mandate of Section 12 of the West Bengal Panchayat Act, 1973 (for short the 1973 Act).

Appearing for the writ petitioner the respondent in this appeal, Mr. Syamal, Learned Counsel, files documents by way of proof of service of notice of the writ petition on all the respondents, including the writ petitioner/the present appellant/the Prodhan of the said Gram Panchayat.

In view of the mode of hearing being conducted *virtually*, the physical copies of the service could not be produced before the Hon'ble Single Bench. However, Mr. Syamal submits, the fact that service was complete upon all the respondents prior to the writ petition being taken up for consideration, remains untainted.

Having heard the parties and considering the materials placed, this Court finds that the other respondents to the writ petition were represented before the Hon'ble Single Bench on the 28th of May, 2021. The Affidavit-of-Service produced in Court today shows service of the writ petition on the respondents.

Next, even assuming for the sake of argument the point taken by the appellant connected to non-service of the writ petition, this Court cannot lose sight of the fact that the Hon'ble Single Bench only permitted the *PA* and *BDO* to take steps in accordance with law *qua* the representation of the writ petitioner since, with the completion of elections, the Model Code of Conduct had ceased to be operative.

In the above view of the matter, this Court must only observe that the appellant has been unable to show the prejudice likely to be suffered by the appellant in the steps, as directed by the Hon'ble Single Bench, are taken in accordance with law. To the further mind of this Court, axiomatically with the Model Code of Conduct ceasing to be operative, steps as directed to be taken by the Hon'ble

Single Bench would mean all steps in terms of the applicable statute, i.e. the West Bengal Panchayat Act 1973 (for short the 1973 Act).

This Court emphasises that in the larger public interest steps in aid of a democratic functioning directed to be taken in accordance with law, ought not to be interdicted.

For the above reasons, no interference is called for in the order of the Hon'ble Single Bench and this appeal with its connected application stands accordingly dismissed.

Since affidavits are not called for, allegations made are deemed to be denied by this Court.

MAT 570 of 2021 and **CAN 1 of 2021** stand **dismissed**.

All 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.

(Saugata Bhattacharyya, J.)

(Subrata Talukdar, J.)