

S/L 20
09.08.2021
Court. No. 19
GB

W.P.A. 12434 of 2021

Md. Majibar Rahaman
VS
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Sabyasachi Chatterjee,
Mr. Subhrajit Saha,
Ms. Anindita Banerjee,
Mr. Akash Mukherjee,
Ms. Sreejita Biswas,
Mr. Sandipn Das.*

...for the Petitioner.

Mr. Gangadhar Das.

...for the Respondent Nos.10 & 11.

*Mr. Lalit Mohan Mahata,
Mr. Prasanta Behani Mahata.*

...for the State.

The petitioners are the requisitionists, who brought a motion before the prescribed authority under Section 101(2) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the “said Act”).

The contention of the petitioners is that the prescribed authority failed to issue a notice within five working days from receipt of the requisition in terms of Section 101(3) of the said Act.

It is the contention of the petitioners that two requisition notices had been brought separately on July 28, 2021 for removal of the Sabhapati and Sahakari Sabhapati of the Ratua-II Panchayat Samiti. Reliance is placed on Section

101(3) of the said Act from which it appears that the prescribed authority has not till date issued a notice for holding the meeting.

Mr. Mahata, learned advocate appearing on behalf of the State submits that a notice on the basis of the requisition and upon satisfaction of the provisions of Section 101(2) of the said Act, should have been issued within five working days from July 28, 2021. The aforesaid period has already expired, but there has been no communication from the Sub-Divisional Officer, Chanchal Sub-Division, as to whether the authority has any intention to hold the meeting or whether the authority is not in a position to hold the meeting, for situation beyond his control.

The Court is of the opinion that the requisition having lost its force should be set aside and the requisitionists should be given a liberty to approach the prescribed authority under Section 101(2) of the said Act by bringing a fresh requisition in accordance with law. The prescribed authority shall satisfy himself about the compliance of Section 101(2) as required and act in terms of the provisions of Sections 101(3) and 101(4) of the said Act. If the prescribed authority is satisfied that the requisition is in order, then the meeting shall be called in terms of the provisions of law by adhering to the time limit prescribed by the statute.

The Court has not passed any decision on the right of the Sabhapati and Sahakari Sabhapati to continue in office, their fate to continue or not to continue in office shall be

decided in the meeting itself. However, the Court is of the opinion that the job of the Sub-Divisional Officer in this case is ministerial in nature and if the Sub-Divisional Officer is satisfied that the provisions of Section 101(2) have been complied with by the requisition then the prescribed authority shall proceed to hold the meeting in accordance with law and reach the proceedings to its logical conclusion.

Mr. Mahata submits that the Officer-in-Charge of Pukuria police station has already submitted a report before this court stating, inter alia, that police assistance shall be given to the prescribed authority and the meeting shall be held with full police protection, if necessary. It is also made clear that the provisions of Sub-Section 11 of Section 101 will not be applicable in this case.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)