

19.08.2021
Sl. No.4
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W.P.A. No. 12533 of 2021
Kalicharan Naskar
Vs.
The State of West Bengal & Ors.

Mr. Robiul Islam
Mr. Gourab Kumar Nath...for the Petitioner

Mr. L.M. Mahata
Mr. Amit Kumar Ghosh ...for the State.

The petitioner is one of the members of Uttar Mokamberia Gram Panchayat. The petitioner is aggrieved because the prescribed authority despite having received the application under Section 213A of the West Bengal Panchayat Act, 1973 has not taken any steps. It is the contention of the petitioner that the respondent nos. 5&6 have voted against the party whip and as such they are liable to disqualified in terms of the provisions of the Act.

Despite service, none appears on behalf of the respondent nos. 5&6. Let affidavit of service be taken on record. This matter is disposed of in the absence of the said respondents as no mandatory directions are being passed affecting the rights of these persons.

Mr. Mahata, learned Senior Government Advocate appearing on behalf of the prescribed authority submits that the prescribed authority did not find the application to be in the prescribed form and the application suffers

from several irregularities. The contention of the petitioner about disqualification of these members were in dispute.

Mr. Islam, learned advocate for the petitioner submits that the prescribed authority must act in terms of the provisions of the statute. As an application has been received under the provisions of section 213A of the said Act, even if the said application is not maintainable, the prescribed authority is always at liberty to reject the application with reasons.;

Mr. Mahata, submits that the prescribed has not concluded the proceeding and the time to conclude the same has not expired, as such the writ petition is premature.

Having heard the rival contention of the parties, this writ petition is disposed of without passing any further orders in favour of the petitioner. However, as the law provides that the prescribed authority should take a decision in accordance with law within a period of eight weeks from date, the prescribed authority shall dispose of the application with reasons upon hearing the petitioner as also the respondent nos.5&6, strictly in accordance with law.

This Court has not gone into the merits of the claims and counterclaims of the parties and the prescribed authority shall deal with the issues on their own merits. If the prescribed authority is of the opinion

that the application is not maintainable, in that case reasons shall be disclosed in the order and communicated to all concerned.

The writ petition is, thus, disposed of.

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

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

All parties are directed to act on the learned advocate's communication.

(Shampa Sarkar, J.)