

19.08.2021
Court No. 19
Item no.12
CP

WPA 12933 of 2021

Baidyanath Mahato
vs.
The State of West Bengal & ors.

(via video conference)

Mr. S. P. Lahiri
Ms. Ankita Dey

....for the petitioner.

Mr. Raja Saha
Mr. Amit Kumar Ghosh

.....for the State.

Affidavit of service is taken on record. Despite service, none appears on behalf of the requisitionists. The e-mail sent to the office of the gram panchayat indicating that the matter will be moved today at 1 pm is also taken on record.

The petitioner is the Pradhan of Chitmu Gram Panchayat.

The petitioner has challenged the notice dated August 10, 2021, by which the prescribed authority has fixed the meeting for removal of the pradhan on August 20, 2021. It is the contention of the petitioner that August 20, 2021 being a public holiday, the meeting cannot be held and prays for setting aside of the said notice.

Mr. Saha, learned advocate appearing on behalf of the prescribed authority, submits that the

prescribed authority has issued the notice in accordance with the provisions of Section 12(4) of the West Bengal Panchayat Act, 1973 (hereafter referred to as the 'said Act'), upon being satisfied with the compliances of Section 12(2) of the said Act. Neither the requisition nor the notice suffers from any defect or irregularity. However, the prescribed authority could not foresee that August 20, 2021 would be declared to be a public holiday.

Having heard the contentions of the learned advocates for the respective parties, this court is of the opinion that the notice under Form 1-E, Sub-Rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975, was issued on August 10, 2021 was rightly issued in accordance with law. At the relevant point of time, August 19, 2021 had been fixed as a public holiday on account of Muharram, but later by a notification dated August 13, 2021, the Finance Department, Government of West Bengal declared August 20, 2021 as a public holiday.

This court is of the opinion that the requisition and the notice under Form 1E are in order. As August 20, 2021 was subsequently declared as a public holiday, the prescribed authority cannot be faulted. As the situation is now beyond his control, the meeting scheduled to be held on August 20, 2021

at 12.00 noon is rescheduled by an order of this court to be held on August 24, 2021 at 12 noon.

Learned advocates for the respective parties shall intimate the directions of this court to the prescribed authority as also to the office of the gram panchayat immediately.

The prescribed authority shall issue a notice to this effect within 5 pm today. The said notice shall be sent to the office of the gram panchayat and displayed in the office of the prescribed authority as also pasted at a conspicuous place in the office of the gram panchayat. The secretary of the gram panchayat office shall intimate the requisitionists over telephone and whatsapp.

It is made clear as 7 days clear notice of the meeting had already been given, further 7 clear days notice will not be required.

The notice shall be displayed in the office of the prescribed authority as also in the office of the gram panchayat by 6 pm today.

This writ petition is thus disposed of. There will be however no order as to costs.

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

Parties are also directed to act on the communication of the learned advocate.

(Shampa Sarkar, J.)