

S/L 2
10.11.2021
Court. No. 19
GB

WPA 13392 of 2021

Sk. Mahatab
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Kamalesh Bhattacharya,
Mr. Muktershar Maity,
Ms. Paramita Maity.

...for the Petitioner.

Mrs. Chama Mookherjee.

...for the Respondent No.5.

Mr. Ziaul Haque.

...for the Respondent No.7.

The petitioner is the member of the Chowki Mirdadpur Gram Panchayat. The petitioner alleges that the present Pradhan, that is the respondent no.7 is neither eligible to be a Pradhan nor a member of the said Gram Panchayat as she did not have a valid schedule caste certificate, although elected from a constituency reserved for a schedule caste candidate.

The Pradhan is before this Court and furnishes a copy of the caste certificate issued by the Sub-Divisional Officer, Chanchal, Malda dated August 5, 2011 under certificate no.8820/4456/Rat-I/11. A copy of the said certificate is retained with the record. A copy of the same has also been supplied to the petitioner.

Mrs. Mookherjee, learned senior advocate submits that pursuant to a complaint by the petitioner, the Block

Development Officer had called the respondent no.7 for verification of all documents and the Block Development Officer was prima facie satisfied with the documents and caste certificate produced by the respondent no.7.

Mr. Haque, learned advocate appearing on behalf of the respondent no.7 submits that the complaint is a fallout of a result of the removal of the erstwhile Pradhan on the ground of lack of confidence and election of the respondent no.7 as the Pradhan, thereafter.

Mr. Bhattacharya, learned advocate appearing on behalf of the petitioner urges that when the complaint was filed by the petitioner, the petitioner ought to have been called for a hearing and further that the Sub-Divisional Officer, that is the issuing authority of the certificate should have enquired into the matter.

Prima facie, this court finds that a caste certificate had been issued to the respondent no.7 in 2011. This Court does not have the expertise to verify and enquire into the validity of the same. Although, the Block Development Officer is prima facie satisfied with the caste certificate granted to the respondent no.7, however, as the Sub-Divisional Officer is the issuing authority, the Court directs the Sub-Divisional Officer to give a hearing to the parties and dispose of the complaint raised by the petitioner. This Court also questions the bona fide of the petitioner, who has raised this objection after two years from the date of election of the respondent no.7 as a member of the said Gram Panchayat.

If it is found that the complaint is frivolous, then the authorities as also the respondent no.7 shall be at liberty to proceed against the petitioner as permitted by law. However, if it is found that the caste certificate is not genuine, the consequences will also follow. Till the decision is made the Pradhan will continue in office without any hindrance and disturbance.

A hearing shall be held in the presence of the parties and a reasoned order shall be passed and communicated to all the parties. The entire exercise shall be completed within a period of eight weeks from date of communication of this order.

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 learned advocate's communication.

(Shampa Sarkar, J.)