

S/L 4
14.09.2021
Court. No. 19
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WPA 14396 of 2021

Satabdi Sarkar & Ors.
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Sarwar Jahan
Mr. Debanshu Ghorai
Mr. Binay Shaw

...for the Petitioners.

Mr. Swarnandu Saha

...for the Respdts.6

Mr. Gangadhar Das

..for the Respdts.9,10,14,16,17

Mr. L.M. Mahata
Mr. Supratim Dhar

...for the State.

The writ petition has been filed by some of the members of the Jatradanga Gram Panchayat alleging that the prescribed authority has not acted in terms of the statute and has been repeatedly fixing dates for removal of the Pradhan on the basis of a requisition brought in May 2021, which had died a natural death long ago.

According to the petitioner, the prescribed authority being a creature of the statute must act within the four corners of the statute and cannot act in violation of the provisions of law.

Mr. Das and Mr. Mahata, learned advocates for the respondents have raised the question of locus standi of the petitioners.

In this case, as the allegation is infraction of the provisions of law by the prescribed authority, the writ petition is entertained. It would have been a different case if the petitioners had challenged the validity of the notice for removal of the Pradhan which was in accordance with law. The petitioners have alleged that the prescribed authority has continuously fixed the dates beyond the statutory period on the basis of the invalid requisition.

Mr. Das learned Advocate for the requisitionists has produced a requisition dated August 19, 2021 on the basis of which the meeting has been fixed.

According to Mr. Jahan, even accepting the requisition was brought on August 19, 2021, calling the meeting on September 16, 2021 was contrary to the mandate of Section 12(4) of the West Bengal Municipal Act, 1973. According to him, the meeting should have been held not later than 15 working days from the date of receipt of the requisition.

Having considered the rival contentions of the parties, this Court is of the opinion that the contention of the writ petitioners are not correct. The requisition brought on August 19, 2021. The officer bearer, who is sought to be removed has not come before this Court alleging that the provisions of Section 12(3) of the said Act with regard to service has not been complied with. Initially, the prescribed authority issued a notice fixing September 2, 2021, as the date for holding the meeting for removal of the Pradhan, that

is, within five working days from date of receipt of the requisition. The prescribed authority postponed the meeting to September 16, 2021 by an order dated September 1, 2021 on the ground that due to some government programmes and mass vaccination camps, police assistance would not be available and without police assistance, the meeting could be held on September 2, 2021. This, in my opinion, is not a violation of the mandate under Section 12(4) of the said Act, inasmuch as, the situation was beyond the control of the prescribed authority to hold the meeting on the date when government programmes and vaccination camps were going on and adequate police force would not be available. The prescribed authority can assess the situation best and if he apprehended that law and order problems at the meeting could occur and decided to postpone the meeting, the situation was beyond the control of the prescribed authority and the meeting was rightly postponed and fixed on September 16, 2021, that is, within the period prescribed under Section 12(10) of the said Act. The law empowers the prescribed authority to postpone the meeting for reasons beyond control.

Under such circumstances, no interference is called for.

The meeting scheduled shall be held as per law, with police support. All the members shall be allowed to participate and the meeting shall be reached to its logical

conclusion within the statutory period, but strictly in accordance with law.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)