

S/L 17  
27.09.2021  
Court. No. 19  
GB

WPA 15714 of 2021

Satya Bhusan Mallik & Anr.  
Vs.  
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Abhratosh Majumdar, Sr. Adv.,  
Mr. Srijib Chakrobarty,  
Mr. Aditya Mondal.*

*...for the Petitioners.*

*Mr. Lalit Mohan Mahata,  
Mr. Rudranil De.*

*...for the State.*

*Mr. Dip Jyoti Chakraborty.*

*...for the Private Respondents.*

The petitioner no.1 is the leader of the Bharatiya Janata Party and the petitioner no.2 was the erstwhile Pradhan of Jajolia Gram Panchayat, who has since been removed.

The petitioners are aggrieved by the order dated September 21, 2021 issued by the prescribed authority pursuant to the motion being carried on the floor of the house for removal of the Pradhan on the ground that the disposal of the application under Section 213A of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act') filed by the Pradhan for disqualification of the respondent no.6, should not have been incorporated in the said order as the prescribed authority did not have any jurisdiction to decide the issue of the maintainability of the

application under Section 213A of the said Act while passing the order recording the factum of removal of the Pradhan.

It is further submitted that as the said order is defective, the petitioner no.2 cannot be treated as a removed Pradhan and the meeting to be held on September 29, 2021 for election of the new Pradhan, should not be held.

Admittedly, the petitioners had moved a writ petition before this Court for a direction upon the Sub-Divisional Officer, Malda Sadar to dispose of the application under Section 213A of the said Act before the meeting for removal of the petitioner no.2 was reached to its logical conclusion. Accordingly, the order was passed by this Court, on the prayer of the petitioners with a direction upon the Sub-Divisional Officer, Malda Sadar to dispose of the said application prior to the time prescribed by the statute for concluding the meeting to be held for removal of the Pradhan. Accordingly, the Sub-Divisional Officer, Malda Sadar passed an order holding that the Sub-Divisional Officer, Malda Sadar did not have the jurisdiction. The meeting was convened. The requisitionists voted in the meeting. A resolution was passed to remove the Pradhan and the same was officially communicated on the basis of the order dated September 21, 2021.

The Court does not find any irregularity with the order of the Sub-Divisional Officer, Malda Sadar in dropping the proceeding in view of the fact that the said authority did not have the jurisdiction. However, the prescribed

authority/Block Development Officer did not have any jurisdiction to incorporate the said factum of the proceeding under Section 213A of the West Bengal Panchayat Act, 1973 in the order dated September 21, 2021 by recording the order of the Sub-Divisional Officer, Malda Sadar in verbatim. The portion of the order dated September 21, 2021 by which the application under Section 213A of the said Act has been mentioned as being dropped is set aside. The rest of the order does not suffer from any irregularity. The portion recording the removal of the Pradhan shall remain. With regard to the election of the new Pradhan, the Court does not find any irregularity in the procedure adopted by the prescribed authority and the same is in compliance with the rules. However, as it is a question of defection of the member which might have an impact on the ultimate outcome of the meeting to be held on September 29, 2021, this Court is of the opinion that the meeting dated September 29, 2021 will be held in accordance with law and reached to its logical conclusion but all actions taken therein shall abide by the final result of the application before the prescribed authority initiated afresh under Section 213A of the said Act on September 23, 2021 provided the same is in order. While disposing of the fresh application under Section 213A of the said Act, the prescribed authority shall not be influenced by any decision of the Sub-Divisional Officer, Malda Sadar or by its own decision recorded in the order dated September 21, 2021 in the 6<sup>th</sup> paragraph thereof.

This Court has not entered into the question of defection and the prescribed authority shall pass necessary orders upon hearing all the parties and in accordance with law within the statutory period. If as on date, the application before the prescribed authority is not in the prescribed form as prescribed by the rules then the petitioners are granted liberty to file a fresh application under Section 213A of the said Act before the prescribed authority which shall be disposed of within the statutory time period from receipt of the fresh application.

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 learned advocate's communication.

**(Shampa Sarkar, J.)**