

S/L 6
04.10.2021
Court. No. 19
GB

WPA 16211 of 2021

Biswajit Ghosh
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

*Mr. Sakya Sen,
Mr. Sunil Gupta,
Ms. Somashree Dey,
Mr. Hasibul Islam.*

...for the Petitioner.

*Mr. Lalit Mohan Mahata,
Mr. Supratim Dhar.*

...for the State.

*Mr. S. Jahan,
Mr. S. Shah,
Mr. Soumen Barman,
Md. Shamim Halder,
Ms. Rakhi Hazra.*

...for the Respondent Nos.9 to 22.

*Mr. Partha Sarathi Bhattacharyya,
Mr. Tanweer Jamil Mandal,
Mr. Raju Bhattacharyya.*

...for the Respondent Nos.24.

The writ petition has been filed by the Sabhapati of the Nowda Panchayat Samiti. The writ petition was filed on two grounds. First, that the prescribed authority fixed the meeting for removal of the Sabhapati beyond 15 working days from the date of receipt of the motion, and second that the prescribed authority has not applied his mind as required under the provisions of Section 101(3) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act'), with regard to the satisfaction under Section 101(2) of the said Act. That there has been misdeclaration with regard to

the party affiliation of Golam Haider Sekh, one of the requisitionists.

Mr. Sen, learned advocate appearing on behalf of the petitioner submits that Saturdays are working days and has annexed a calendar of the West Bengal Government to the writ petition. Next, he submits that an application under Section 213A of the said Act is pending before the authority for disqualification/removal of the said Golam Haider Sekh on the ground of defection.

The matter was adjourned on the previous occasion in order to enable the learned advocate for the prescribed authority to apprise this Court as to whether Saturdays are treated as working days or not. A written instruction has been filed by the prescribed authority before this Court, which is taken on record. It appears that Saturdays are treated as holidays. Thus, the computation of 15 working days in this case, is correct and the meeting which has been fixed on October 7, 2021 does not suffer from the irregularity of being held beyond the time period prescribed by the statute. With regard to the other question of the requisition being bad in law on the ground of misdeclaration of Golam Haider Sekh about his party affiliation it is urged that the entire requisition should be set aside.

Reliance has been placed on some decisions of this Court, namely, ***Suraj Mondal versus State of West Bengal and Others*** in ***W.P. 21632 (W) of 2010. Gopal Kumar & Anr. versus The State of West Bengal &***

Ors. reported in **(2015) 1 Cal LT 173**, and **Farida Bibi versus State of West Bengal & Ors.**, reported in **(2016) 15 CHN (Cal) 258**.

This Court is not in agreement with Mr. Sen learned Advocate and Mr. Bhattacharyya, learned senior advocate on this issue. First, there is an application pending for decision before the prescribed authority with regard to the disqualification of the Golam Haider Sekh, which has not yet been decided. Whether he has defected or not is a matter, which shall be decided by the appropriate authority. Secondly, the Sub-Divisional Officer did not have any occasion to come to a decision as to whether the party affiliation mentioned in the requisition was incorrect, unless there is a decision on this issue in an appropriate proceeding. The newspaper report relied upon by the petitioner at Page-47 of this writ petition does not mention the name of the said requisitionist. The other documents before this Court also do not impress the Court at this stage to hold that the allegations made by the petitioner with regard to the defection of Golam Haider Sekh has been established. The Court is not persuaded to hold at this stage that the party affiliation has been incorrectly mentioned in the absence of supporting documents..

Thus, the decision of Suraj Mondal (supra) does not apply in this case. In Suraj Mondal (supra), a group of requisitionists had been defected and formed a party on their own but signed the requisition by mentioning their previous

affiliation. The decision of Farida Bibi (supra) does not apply in this case in view of the fact that in Farida Bibi, the requisition was incomplete, as the party affiliations were not mentioned. This Court is thus not convinced by the case made out by the petitioner and, as such, the writ petition is disposed of without any order.

There will be no order as to costs.

The meeting will be held on the date and time as scheduled by the prescribed authority in accordance with law.

The observations made herein, shall not have any effect on the pending application before the appropriate authority under Section 213A of the said Act.

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

(Shampa Sarkar, J.)