

S/L 7
05.10.2021
Court. No. 19
GB

WPA 16577 of 2021

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

(Through Video Conference)

Mr. Anjan Bhattacharya,
Ms. Anita Shaw.

...for the Petitioner.

Mr. Raja Saha,
Mr. S.P. Lahiri.

...for the State.

Mr. Gangadhar Das.

...for the Respondent No.7.

The writ petition is disposed of on a very small campus as the situation has been made irreversible by the conscious efforts of external forces to frustrate the requisition brought by the petitioner.

The requisition was brought for removal of the Pradhan. The requisition was in order and the prescribed authority upon satisfying himself about the compliance of Section 12(2) of the West Bengal Panchayat Act, 1973 fixed October 29, 2021 to hold the meeting for removal of the Pradhan.

Some of the members who are also requisitionists, had moved an earlier writ petition praying before this Court that the hearing fixed by the Sub-Divisional Officer, Malda Sadar, for their disqualification should not be held prior to the meeting for removal of the Pradhan. This Court rejected such

prayer of those members but granted them liberty to file an additional written statement before the SDO. This Court did not allow any prayer for cancellation of the hearing. Thus the hearing fixed on October 28, 2021 was not interfered with.

Although, it was the specific case of the members that the Sub-Divisional Officer had intentionally fixed the date for hearing the application for disqualification/removal of the members prior to the meeting, this Court refrained from interfering with the decision of the Sub-Divisional Officer to hold the hearing before the meeting for removal was scheduled.

The meeting for removal of the Pradhan was scheduled on September 29, 2021. On September 28, 2021 the prescribed authority cancelled the meeting on the ground that the police assistance would not be available.

Mr. Saha, learned advocate appearing on behalf of the prescribed authority does not have any knowledge as to why the meeting was cancelled.

Mr. Das, learned advocate appearing on behalf of the Pradhan submits that the Pradhan does not have any role to play, insofar as, the decision of the prescribed authority to cancel the meeting is concerned.

Having heard the rival contentions of the parties, this Court was contemplating to issue a direction that the meeting should be held within the statutory period of 30 days that is, October 9, 2021 and the order of this Court

would be treated as a notice. Unfortunately, the other members who have a right to participate in the meeting are not before this Court and those members have gone away with the impression that the meeting would not be held. Thus, it would not be proper for the Court to pass any order fixing the meeting on or before October 9, 2021 in the absence of the parties. Thus, the writ petition is disposed of granting liberty to the requisitionists to bring a fresh requisition.

The requisitionists are granted liberty to bring a fresh requisition under Section 12(2) of the said Act. If such requisition is brought, the prescribed authority shall act and proceed in terms of the provisions of Sections 12(3) and 12(4) onward of the said Act. The bar under Section 12(11) of the said Act shall not be applicable. The time limit prescribed by the statute shall be adhered to. It is further made clear that the prescribed authority shall be entitled to seek police protection and if such request is made, the police authority shall render all support to the requisitionists as also to the prescribed authority without any delay and laches. It is also made clear that if the Pradhan tries to evade service of requisition then the requisitionists shall be entitled to serve the same in his office through his secretary or assistant and if, such service is not accepted, then the requisitionists will be entitled to paste the same at the office of the Pradhan in addition to sending the same by registered post to the residence of the Pradhan.

This Court is not interfering with the proceeding before the Sub-Divisional Officer and the same shall continue in accordance with law. The issues with regard to the requisition and the intention of the petitioner and other members to remove the Pradhan shall not have any impact on the proceeding before the Sub-Divisional Officer and the Court expects that the Sub-Divisional Officer should rise to the occasion and understand the implication of cancellation of the meeting by the Block Development Officer on the ground of inability of the police authorities to provide protection only a day before the meeting. Such failure of the authorities to allow the requisitionists to exercise their rights in accordance with law has been taken cognizance by this Court. It is hoped that the cancellation of the meeting was not a ploy to frustrate the rights of the members.

This writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)