

S/L 8
10.12.2021
Court. No. 19
GB

WPA 20029 of 2021

Mamataj Begam
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Dipankar Pal,
Mr. Sandip Dinda.

...for the Petitioner.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata.

...for the State.

Mr. Sarwar Jahan,
Mr. Anisur Rahaman.

...for the Respondent Nos.5 to 13.

The petitioner is the erstwhile Pradhan of Sujapur-Kumarpur Gram Panchayat, who has been removed at a meeting convened by the prescribed authority on the basis of a requisition brought by the respondent nos.5 to 12. The meeting for the removal of the petitioner was held on November 23, 2021. On November 25, 2021 a notice was issued by the prescribed authority stating that the meeting for the election of the new Pradhan would be held on December 8, 2021 at 12 noon. Thereafter, another notice was issued on December 3, 2021 by the prescribed authority fixing the date of the meeting on December 15, 2021 vide Memo No.2956/1(16). The petitioner submits that without cancelling the Memo No.2864/1(16) dated November 25, 2021, by which the meeting for election of the new Pradhan was fixed on December 8, 2021, the subsequent notice could

not have been issued. As such the meeting should be cancelled by this court.

According to Mr. Pal, learned advocate appearing on behalf of the petitioner, repeated notices issued by the prescribed authority only indicate the *mala fide* intention of the prescribed authority. He further submits that in order to cover up such irregular action, by a subsequent Memo No.2962/1(16), the notice dated November 25, 2021 was recalled. Mr. Pal submits that the prescribed authority ought to have first postponed or cancelled the earlier notice dated November 25, 2021 and then issued the subsequent notice fixing December 15, 2021, as the date of meeting. The contention of Mr. Pal that the notice dated December 3, 2021 and the meeting to be held on December 15, 2021 ought to be set aside and cancelled in view of the procedural irregularity, is not accepted by this Court for the following reasons:

- a) The law prescribes that the meeting for election of the new Pradhan should be held within thirty days from the date of removal of the erstwhile Pradhan and in this case, the petitioner/erstwhile Pradhan was removed from his office on November 23, 2021 and the meeting has been scheduled for election of the new Pradhan on December 15, 2021, which is within the statutory period.
- b) The order of postponement and the notice of the re-scheduled date of the election of the new Pradhan are both dated December 3, 2021, even if the notice dated December 3, 2021 postponing the

earlier meeting to be held on December 8, 2021 was signed or issued subsequent to the notice under Form-1, it appears that these two notices were published simultaneously.

- c) It is not a case where the concerned members, who are to participate in the meeting were informed about the date of the next meeting prior to being informed about the postponement of the earlier meeting. The communication of the date of the meeting and the postponement of the earlier meeting are both dated December 3, 2021 and issued on the same day. There is neither any evidence nor pleading to the contrary.
- d) Issuance of notices are a procedural formality and in the absence of any error apparent on the face of record and in the absence of any allegation of non-compliance of the statutory provisions, this Court does not find any need to interfere with the proposed meeting. The cancellation of a meeting or postponement of a meeting are not prohibited by law. Moreover no real prejudice has been either pleaded or proved.
- e) Finally Mr. Pal's client is now a member and he is aware of the meeting. None of the other members are aggrieved. A Gram Panchayat cannot run without consensus of all and without a Pradhan. No purpose would be served if the authority is directed to issue a fresh notice as the consequence

ultimately would be the same and in either the case, a meeting would have to be held for election of a new Pradhan within thirty days from removal of the petitioner.

All the members are aware. The petitioner herself is a member now and can participate in the meeting. Sufficient time has been given to the members to think and ponder over the agenda and exercise their voting rights on the floor. None of the members have complained of such postponement. No prejudice has been demonstrated. The petitioner has been removed by a democratic process.

Accordingly, the writ petition is disposed of. The meeting shall be held as scheduled.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)