

Ct. 05
Item No.06
17.12.2021
(suvendu)

WPA 20583 of 2021

[Via Video Conference]

Doli Rajak (Chowdhury)
Vs.
The State of West Bengal & Ors.

Mr. Sayed E. Huda
Mr. Shounak Mukherjee
Ms. Mumpy Singha
.....for the petitioner

Mr. Lalit Mohan Mahata
Mr. Prasanta Behari Mahata
.....for the State

Mr. Gangadhar Das
.....for the respondent no. 8

The supplementary affidavit filed on behalf of the petitioner is taken on record.

The prayer in the writ petition is for setting aside of an order dated 10th December, 2021 passed by the Sub-Divisional Officer of Malda Sadar by which the petitioner has been removed as a member of Jadupur –II Gram Panchayat. The challenge to the said order is that the order suffers from various factual inconsistencies relating to a leave application made by the petitioner for being excused from three meetings called by the Gram Panchayat. The reason for removing the petitioner as a

member of the Gram Panchayat is her absence in three consecutive meetings of the Gram Panchayat under Section 11 (1)(d) of The West Bengal Panchayat Act, 1973.

Learned counsel appearing for the State disputes some of the factual positions taken on behalf of the petitioner while learned counsel appearing on behalf of the private respondent, being the erstwhile Pradhan of the said Gram Panchayat, points to the alternative remedy which was available to the petitioner under the provisions of the 1973 Act.

Although detailed submissions have been made on behalf of the petitioner referring to the various documents on record including the fact that the petitioner's application for leave from 16th January to 15th September, 2021 on account of pregnancy and other physical issues was received by the Gram Panchayat under its seal, this Court is not willing to go into the said questions when an efficacious alternative remedy was available to the petitioner under Section 11 (2) of the 1973 Act before approaching the writ Court. Under Section 11 (2), any member of a Gram Panchayat who is removed from his office by the prescribed authority under Section 11 (1) may within thirty days from the date of the order, appeal to the authority

appointed by the State Government and the authority concerned may modify, set aside or confirm the removal order after giving notice of the appeal to the prescribed authority and after hearing all concerned parties.

A Notification dated 24th August, 2009 of the Department of Panchayats and Rural Development of the Government of West Bengal, issued under Section 11 of the 1973 Act, prescribes that the District Magistrate shall act as the Appellate Authority for the concerned Gram Panchayat.

The petitioner, therefore, has not shown any reason for not approaching the Appellate Authority under Section 11(2) of the Act and as notified on 24th August, 2009. There is also no ground to hold any breach of the principles of natural justice since the petitioner was given multiple hearings and an enquiry was also made on the correctness of the claims of the petitioner.

WPA. 20583 of 2021 is accordingly dismissed without any order as to costs.

This Court has not expressed any views in the matter and the Appellate Authority shall decide the appeal if and when filed by the petitioner without being influenced by the present writ petition.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)