

7th January,
2022
(AK)
SPL 01

W.P.A 210 of 2022

Papi Das
Vs.
The State of West Bengal and others

(Via Video Conference)

Mr. Dipankar Pal
Mr. Jahangir Alam
Mr. Kunal Ganguly

...for the petitioner.

Mr. Jahar Lal Dey
Mr. Benazir Ahmed

...for the State.

Mr. Tapas kumar Mondal
Mr. Swapan Das

...for the private respondents.

After hearing learned counsel for the parties, it is evident that the limited scope of adjudication in the present writ petition is the alleged violation of Rule 5B (14) of the Panchayat (Constitution) Rules, 1975 by the respondent-authorities.

The petitioner was functioning as Panchayat Pradhan in the Motiharpur Gram Panchayat since the year 2018. Subsequently a no-confidence motion was brought against her and ultimately on December 21, 2021 a removal notice was issued against the petitioner, which is annexed at page-12 of the writ petition.

Learned counsel for the petitioner argues that the order of removal, as appearing at page-13 (Annexure-P3) of the writ petition, indicates that the same was also passed on the same date, that is, on December 21, 2021.

Learned counsel for the petitioner contends that, within the contemplation of Clause (14) of Rule 5B, the Presiding Officer can, within three working days of the meeting, submit a report in writing along with a copy of the minutes and all other documents of the meeting to the prescribed authority, who shall, within the next five working days, take such action in terms of sub-Section (10) as he may deem fit and proper.

It is argued that in view of the specific time-frame allotted in Clause (14), read with Clause (10), the haste in which the publication of the result was made, on the same date on which the decision as to the removal of the petitioner was taken, is clearly *mala fide* and ought to be set aside.

It is contended by the petitioner that the court ought to interpret the language of the Clause (14) of Rule 5B to the effect that the Presiding Officer and/or the prescribed authority ought to have done their respective duties as per the said Clause within the day stipulated therein, that is, 3 and the next 5 working days respectively.

Learned counsel for the petitioner further submits that it is travesty of justice to finish the entire exercise within a single day, as done in the instant case.

Learned counsel for the respondent-authorities controvert such submission and argue that the stipulated time period is the outer limit for submitting a report (within three working days) and taking action in terms of sub-Section (10) (next five working days).

As such, there was no violation of the provision in view of the authorities having completed the exercise within a single day, which is within the permissible limits of law.

The submission of the respondent-authorities is much more impressive than that of the petitioner. Although the outer limit of the respective actions of the Presiding Officer and the prescribed authority are respectively '*three working days*' and '*next five working days*', the same only operates as the last date for completion of such functions.

It may very well be that the Presiding Officer and the prescribed authority complete their respective functions within the single day, both of which, in that event, will fall within the outer limits of three days and next five working days respectively.

The same having been done in the present case, the court cannot find any illegality *ipso facto* from such action on the part of the authorities.

As such, there is no merit in the writ petition.

Accordingly, WPA 210 of 2022 is dismissed on contest without, however, no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)