

S/L 2
17.02.2022
Court. No. 19
srn

W.P.A. 688 of 2022

Sekh Sahejamal & Ors.
VS
The State of West Bengal & Ors.

Mr. Pratik Dhar,
Mr. Sougata Mitra,
Mr. Avishek Prasad,
Ms. Ankita Dey,
Mr. Rameswar Singh

...for the Petitioners.

Mr. JaharLal Dey,
Mr. Benazir Ahmed

...for the State.

Mr. Tapas Datta Gupta,
Mr. Parvej Anam

...for the Respondent No.8.

The petitioners are ten members of the Jhalda Darda Gram Panchayat, District-Purulia. They have made allegations against the respondent Nos.8 and 9 of kidnapping the respondent No.7. The respondent No. 7 was the erstwhile Pradhan of the said gram panchayat. The challenge is to the acceptance of the resignation of the respondent No. 7 in violation of the provisions of Section 10(2) of The West Bengal Panchayat Act, 1973 (hereinafter referred to as the said Act).

Mr. Dhar, learned Senior Advocate appearing on behalf of the petitioners, contended that the whereabouts of the respondent No.7 could not be traced for about two months and the signature on the resignation letter was a forged one. It is further contended that the respondent Nos.8 and 9 illegally detained the respondent No.7, forged his signature and submitted a resignation letter. The prescribed authority also

accepted the said resignation without granting an opportunity of hearing to the respondent No.7. He further submitted that the prescribed authority failed to comply with the provisions of Sections 10(2) and 10(3) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the said Act).

The respondent No.8 submitted that the allegations were false and frivolous. The writ petition was not maintainable as the respondent No.7 has not challenged the order of the prescribed authority. It was further submitted that the petitioners/members in order to deny the respondent No.8 of his chance of being elected as the Pradhan which was a seat reserved for a Schedule Tribe candidate, have attempted to stall the election of the new Pradhan, by filing the writ petition and by making false allegations.

Mr. De, learned Senior Government Advocate, appeared on behalf of the State-respondents. On the last occasion he submitted that the police authorities had informed him after questioning the family members of the respondent No.7, that the respondent No.7 was not kidnapped, but was residing at his friend's house.

The Court, *prima facie*, having found the allegations of kidnapping and forgery to be serious, directed the police authorities to obtain written statements from the family members and also trace out the respondent No.7. The matter was heard yesterday (16.02.2022) and directions were passed.

Mr. De co-operated with the Court and ensured that the police authorities acted on the basis of the order of the Court. Mr. De has produced the statements signed by the

father, mother and the wife of the respondent No.7 as also by the respondent No.7. The family members have categorically submitted that the respondent No.7 had gone to his friend's house and had resigned voluntarily. The police authorities again returned to the house to question the respondent No.7. The respondent No.7 gave his statement on February 16, 2022 addressed to the IC, Jhalda Police Station. The statements are in Bengali (vernacular) which indicate that the respondent No.7 had gone to his friend's house at Grabeta, Paschim Medinipur, but had not informed his family members about the address. He had resigned voluntarily and out of his own will. There was no force or coercion or political pressure behind such resignation. The resignation was exclusively for health reasons. The original documents bearing the signatures, LTI's of family members and the respondent No.7 are taken on record. The copy of the letter of resignation, which was handed over to the police authorities, is also taken on record.

The allegation of the petitioners that the prescribed authority did not adhere to the time limit prescribed under the law for issuance of the notice to the respondent No.7 becomes an academic discussion in view of the statement given by the respondent No.7 of having voluntarily resigned from the post of Pradhan of Jhalda Darda Gram Panchayat without any force or coercion and only on health reasons.

The notice was issued, hearing was fixed by the prescribed authority, but the respondent No. 7 did not appear. When the Pradhan has not questioned the order of

acceptance of his resignation and had admittedly submitted before the police authorities, deputed by the Court to take the statement of the respondent No.7, that he did not want to continue as a Pradhan, nothing remains to be decided.

The decision of this Court in the matter of Tarun Goswami vs. The State of West Bengal & Ors. (In Re: WPA 14556 of 2021), as cited by the petitioner, is not germane for disposal of this case. In that case, the Pradhan himself had come before the Court denying the resignation and it was the specific case that he had not received the notice issued by the prescribed authority under Section 10(2) of the said Act.

However, as there are allegations against the Block Development Officer, Jhalda-I, the petitioners are at liberty to raise their grievance before the District Magistrate, Purulia, which shall be decided in accordance with law. The meeting scheduled to be held of the new Pradhan is not interfered with. The same shall be held.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)