

04.04.2022
Sl. No.20
ss

W.P.A. 2970 of 2022

**Shankar Sarder
Vs.
The State of West Bengal & ors.**

Mr. Manjit Singh
Mr. Gaganjyot Singh
Mr. Biswajit Mal
... for the petitioner

Mr. Lalit Mohan Mahata
Mr. Rudranil De
... for the State

Mr. Debajyoti Deb
Mr. Tamal Ghosh
Mr. Sanjoy Kumar Das
... for the respondent no. 6

The petitioner is the Upa-Pradhan of Fulmalancha Gram Panchayat. The petitioner alleges that in view of the litigations pending against the Pradhan and the absence of the Pradhan from the jurisdiction of the Basanti Police Station, as per the condition of bail imposed by the Hon'ble High Court, the daily functioning of the office of the Gram Panchayat has been disrupted and all developmental works have been stalled.

It is submitted that the Gram Panchayat cannot function without a Pradhan or without a person discharging the duties of the Pradhan.

In support of the prayer for handing over the charge to the petitioner, the relevant law has been referred to.

Mr. Deb, learned Advocate appearing for the Pradhan, submits that the Hon'ble High Court has already directed

that the Pradhan may apply before the learned Sessions Judge for relaxation of the condition of bail and it is likely that the Pradhan shall assume office soon. He, thus, submits that the Writ Court need not interfere at this stage.

Mr. Mahata, learned Senior Government Advocate, submits that the law provides that in the absence of the Pradhan, the Upa-Pradhan should have been handed over charge to discharge the functions of the Pradhan. However, he submits the prescribed authority did not hand over charge to the Upa-Pradhan within the statutory period of thirty days. Hence, according to Mr. Mahata, the prescribed authority cannot pass any order, as prayed for in the writ petition.

Under such circumstances, this Court does not pass any order directing the petitioner to discharge the functions of the Pradhan, but refers the matter to be decided by the District Magistrate, South 24-Parganas on the basis of the representation dated February 1, 2022.

Such representation shall be considered upon hearing the petitioner as also the respondent no.6 within a fortnight from the date of communication of this order.

A reasoned decision shall be taken and communicated to all the parties. Such decision shall be subject to any further orders that may be passed by the learned Sessions Judge or this Court in the criminal proceedings.

This order is being passed as the Court is conscious of the fact that a Gram Panchayat cannot run without

someone discharging the functions of the Pradhan, in the absence of the Pradhan.

With the above observations, this writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)