

S/L 8
14.11.2022
Court. No. 19
GB

W.P.A. 2977 of 2022

Md. Azizur Raharnan
VS
The State of West Bengal & Ors.

*Mr. Syed Shahid Imam,
Md. Khairul.*

...for the Petitioner.

*Mr. Jahar Lal De,
Ms. Smita Das Dey.*

...for the State.

*Md. Sarwar Jahan,
Mr. Maidul Islam Kayal.*

...for the Respondent No.7.

The petitioner approached the Sub-Divisional Officer, Chanchal, Malda for removal of the respondent no.7. The respondent No.7 is the Pradhan of Sripur-II Gram Panchayat. It is contended by Mr. Imam, learned advocate for the petitioner that before the Hon'ble Division Bench in a Public Interest Litigation, reports and the affidavits-in-opposition have been filed. The contents thereof would sufficiently indicate that there is substance in the allegation brought by the petitioner against the respondent no.7.

Mr. Jahan, learned advocate appearing on behalf of the respondent no.7 submits that when the matter is sub judice before the Hon'ble Division Bench and the CAG is yet to file the final report, the Sub-Divisional Officer shall not be in a position to decide the issue.

Mr. De, learned Additional Government Pleader submits that the State of West Bengal has already indicated its stand in the Public Interest Litigation, which has been filed before this court.

This Court is not required to go into the merits of the issue raised by the petitioner nor is it prudent to pass any orders with regard to the allegations raised by the petitioner, during the pendency of the application before the prescribed authority.

The contention of Mr. Jahan is that until the Public Interest Litigation is taken to its logical conclusion and necessary orders are passed, the Sub-Divisional Officer would not be in a position to take a decision. Mr. De, also submits on similar lines.

Be that at it may, the provision of the West Bengal Panchayat Act, 1973 allows the petitioner to approach the Sub-Divisional Officer, Chanchal, Malda with a prayer claiming directions under Section 213B of the West Bengal Panchayat Act, 1973. The Sub-Divisional Officer is also bound to dispose of the said application within a reasonable time. In this case, the Sub-Divisional Officer has not taken any steps to decide the issues finally. If the Sub-Divisional Officer is of the opinion that the hearing cannot proceed or the authority is required to wait till the decision in the Public Interest Litigation is over, in that event, a reasoned order expressing his views must have been passed and communicated to the petitioner, so that the petitioner is aware of the consequences of the application, which he has filed.

Under such circumstances, the writ petition is disposed of with a direction upon the Sub-Divisional Officer to intimate the petitioner as to the fate of the application

filed under Section 213B of the West Bengal Panchayat Act, 1973. Such intimation shall be given within a period of four weeks from date of communication of this order.

Accordingly, the writ petition is disposed of.

The disposal of the writ petition shall not prevent the petitioner from praying to be added as a party in the Public Interest Litigation.

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.)