

22.
05.05.2022
S.D.

W.P.A. 4328 of 2022

Golam Rasul Laskar
Vs.
The State of West Bengal & Ors.

Mr. Manjit Singh
Mr. Gaganjyot Singh
Mr. Biswajit Mal

..For the Petitioner.

Mr. Jaharlal De
Mr. Shamim Ul Bari

..For the State.

Mr. Debajyoti Deb
Mr. Sanjoy Kumar Das

..For Respondent No. 5.

The petitioner has alleged inaction on the part of the prescribed authority being the Sub-Divisional Officer, Canning Sub-Division in disposing of the complaint dated February 16. 2022. By the said complaint, some of the villagers residing within the jurisdiction of Basanti Panchayat Samiti have alleged that the respondent no. 5 was disqualified to continue as a member and Sabhapati of the said Panchayat Samiti. It has been urged that the ground for such disqualification was violation of the provision of Section 97 (c) of West Bengal Panchayat Act, 1973, (hereinafter referred to as the said Act).

Mr. Singh, learned advocate appearing on behalf of the petitioner submits that the son and the wife of the respondent no. 5 have been awarded several contracts by the gram panchayats under the said Samiti and as such the petitioner had lost his right to continue as a member of the Samiti. He further submits that the persons in the locality have brought the issue to the knowledge of the prescribed authority and the prescribed authority must invoke his power under Section 100 of the said Act and take a decision in accordance with law.

Mr. De, learned Additional Government Pleader submits that the allegations made by the petitioner do not fall within the purview contained in Section 97 (c) of the said Act. According to Mr. De, the petitioner would have to show that the respondent no. 5 either directly or indirectly or through his employer or partner had any interest in any contractual work which was allotted to such persons. Mr. De, learned advocate appearing on behalf of the respondent no. 5 submits that the allegation that the respondent no. 5 had influenced different Panchayat authorities in procuring contracts for his son and wife have not been fortified with documents/evidence and vague allegations could not be accepted.

Mr. Deb, learned advocate appearing on behalf of the respondent no. 5 submits that the allegations are frivolous. That not a single instance has been demonstrated which would show that the respondent no.5 had influenced any decision of any gram panchayat in respect of awarding contracts to the wife and son of the said respondent. The allegations made, do not come within the scope of Section 97(c) of the said Act. He further submits that the contracts have been awarded by the gram panchayats and neither had he signed any documents nor was he present in the relevant meetings.

Be that as it may, as the Sub-Divisional Officer, Canning Sub-Division has been informed about the alleged disqualification of the respondent no. 5 and as there is a provision under Section 100 of the West Bengal Panchayat Act, 1993 for removing such members who have acted to the contrary of the provision of Section 97 (c) of the West Bengal Panchayat Act, court directs the prescribed authority to dispose of the complaint in terms of the Section 100 of the said Act, strictly in accordance with law.

The point of maintainability of the said application at the instance of the petitioner is kept open. The authority

shall decide whether the situation calls for exercise of such powers.

The writ petition is disposed of with the direction as above, upon granting an opportunity of hearing to all concerned, including the petitioners and the respondent no.5.

A reasoned order shall be passed and communicated to all concerned.

This Court has not gone into the merits of the case and the entire exercise shall be completed within a period of four months from the date communication of this order.

Accordingly, the 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.)