

S/L 8
4.4.2022
Court. No. 19
sn

WPA 5615 of 2022

Sariful Sanpui
Vs.
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Kamalesh Bhattacharyya
Mr. Krishna Pada Santra

... for the Petitioner.

Mr. Sirsanya Bandopadhyay
Mr. Arka Kumar Nag

... for the State.

Despite service, none appears on behalf of the Pradhan. Affidavit of service is kept on record.

The petitioner is aggrieved by the alleged denial on the part of the Sub-Divisional Officer, Baruipur, South 24 Parganas, to accept the evidence of the petitioner and also for not calling upon Smt. Uma Mondal and Rokia Bibi to depose on the statements made by the petitioner. The petitioner is one of the members of Beonta-I Gram Panchayat, South 24 Parganas. The proceeding was initiated by the Pradhan for disqualification of some of the members of the said Gram Panchayat, on the ground of non-attendance in three consecutive meetings.

The Sub-Divisional Officer, Baruipur, South 24 Parganas, was directed by this Court to dispose of the application of the Pradhan within a limited period.

The allegations of the petitioner are as follows:-

a) The Sub-Divisional Officer, Baruipur, South 24 Parganas has acted in a hot haste.

b) The Sub-Divisional Officer, Baruipur, South 24 Parganas has not taken into account the deposition of the petitioner.

c) The procedure adopted was contrary to law.

Mr. Bhattacharyya, learned advocate for the petitioner hands over a copy of the order dated March 28, 2022, and submits that the hearing has been concluded by the authority without calling upon Smt. Uma Mondal and Rokia Bibi to depose, pursuant to the statement of the petitioner that the husbands of the said persons were at the relevant meetings, in their place and as such, there were no valid meetings in the eye of law.

Mr. Banerjee, learned Junior Standing Counsel submits that the writ petition has been filed on an assumption that the Sub Divisional Officer has prejudged the issue. That the application is premature, as the hearing has not yet been concluded. That the writ court should not transform itself into a fact finding authority, by taking over the role of Sub Divisional Officer, by deciding an application under Section 11(1)(d) of the West Bengal Panchayat Act, 1973.

Heard the learned Advocates for the respective parties.

The petitioner was one of the witnesses of the members, who were sought to be removed. The said members have been described by the Sub-Divisional Officer as private respondents. The petitioner before the Sub-Divisional Officer is the Pradhan.

In my view, if at all, the Sub-Divisional Officer has acted illegally in dealing with the evidence of the petitioner, the parties aggrieved by such procedure, being the members sought to be removed, would have the right to challenge such action and the orders passed. The petitioner is just a witness, who had adduced evidence in favour of a party.

Thus, the petitioner does not have any locus to move this writ petition, when the parties on whose behalf the petitioner had adduced evidence, are not before the Court. Clearly they are not aggrieved at this stage.

Moreover, the document which has been handed over to this Court does not reflect that the proceeding has been concluded. The next date of the proceeding has been fixed on April 5, 2022 at 3.30 p.m.

The Sub-Divisional Officer has also granted liberty to the petitioner therein as also to the private

respondents therein (meaning the members on whose behalf, the petitioner adduced evidence), to produce further documents in order to establish their claims and objections.

Thus, the Court holds that the writ petition should not be entertained on the ground of lack of locus as also on the ground that the writ petition is premature. The Sub-Divisional Officer, Baruipur, South 24 Parganas has not yet taken a decision in the matter.

All points are to be decided by the Sub-Divisional Officer. The parties are at liberty to produce both oral and documentary evidence and renew their prayer for recording further evidence in support of their further claims, before the Sub-Divisional Officer.

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

There shall be no order as to costs.

All parties are to act on the basis of server copy of this order.

(Shampa Sarkar, J.)