

15.09.2022
Court No. 19
Item no.08
CP

W.P.A. No. 13025 of 2021

Badal Maity & ors.

Vs.

The State of West Bengal & Ors.

Mr. Saibal Acharyya

Mr. Pradip Paul

.....for the petitioners.

Sk. Md. Galib

Ms. Subhra Nag

....for the State.

Mr. Tanmay Ghosh

Mr. Tanmay Chowdhury

Ms. Ritoprita Ghosh

...for the respondent nos. 5 & 6.

The writ petition has been filed with prayers for cancellation of the decision taken in the meeting held on August 6, 2021 at the office of the Sabang Panchayat Samiti for removal of the petitioners from the posts held by them as the beneficiary managing committee of Chhatarkole Cluster Tube Well Scheme (Chhatarkole Guccha Mini Prakalpa). The contention of the petitioners is that without taking a decision on the basis of the answers filed by the petitioner, in reply to the show cause notices. Such decision was taken. Further prayer has been made to allow the petitioners to continue as the beneficiary managing committee.

The petitioner submits that once the show cause notices had been issued, the replies filed by the petitioners ought to have been considered, looked into and then the decision ought to have been taken for reconstitution of the committee.

The learned advocate for the panchayat samiti submits that several show cause notices were issued to the petitioners. The petitioners failed to appear at the meetings and also did not file their reply. The Block Development Officer also held a meeting, but the petitioners failed to appear.

It is submitted that multiple complaints with regard to the water tax bills, electricity bills etc. had been received from the farmers against the committee of Chhatarkole Cluster Tube Well Scheme. The beneficiary committee (petitioners) did not attend the meetings which had been held. The Sabhapati of Sabang Panchayat Samiti issued two show cause notices on June 21, 2021 and July 2, 2021. The petitioners were also not available at the meeting on June 18, 2021. The direction upon the petitioners to produce the water tax collection receipts and the electricity bills etc. was also not complied with. An audit was held as per the government rules. Notices were issued to the petitioners. The petitioners did not attend the meetings and also did not appear before the auditor. Hence, it was decided that the audit

would be continued in their absence. The samiti also decided to take legal action against the petitioners and a complaint was lodged before the Sabang Police Station.

Under such circumstances, the court does not find any reason as to why the decision taken in the meeting dated August 6, 2021, ought to be cancelled. The petitioners failed to appear at the meetings held and also failed to answer to the show cause notices within the stipulated time. The petitioners did not appear before the auditor, despite notice. Having found defalcation of fund and illegality as also irregularity in the way the petitioners conducted themselves as the beneficiary committee, the samiti had taken certain legal and remedial steps. One of such step being constitution of a new committee. Moreover, criminal investigation is pending against the petitioners on the basis of the complaint filed by the samiti. An FIR has been registered.

At a belated stage, an answer to the show cause notice issued by the Sabhapati of Sabang Panchayat Samiti, has been filed by the petitioners. The Sabhapati of Sabang Panchayat Samiti is directed to dispose of the reply filed by the petitioners by passing a reasoned order, upon hearing the petitioners.

A reasoned order shall be passed and communicated to all concerned. The entire exercise shall be completed within eight weeks from the date of communication of this order.

It is made clear that this court has not made any observation on the correctness of the statements of the petitioners. The answer to the show cause notice has not been looked into. All steps which have been taken prior to the filing of the writ petition, by the authority shall continue and shall not be impacted by this order. The criminal proceedings shall not be impacted by 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 server copy of this order.

(Shampa Sarkar, J.)