

28.2.2022
Court No. 19
Item no.7
sn

W.P.A. No. 14556 of 2021

Tarun Goswami
Vs.
The State of West Bengal & Ors.

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. Piyush Chaturbedi
Mr. Tapas Singha Roy
.....for the petitioner.

Mr. Rabi Lal Maitra, Sr. Adv.,
Mr. Aniket Mitra,
Mr. S. Saha
.....for the Respondent No.14.

Mr. Jahar Lal De,
Mr. Sirsanya Bandopadhyay,
Mr. Shamim ul Bari,
....for the State.

A report has been filed by the Criminal Investigation Department, West Bengal. The same is kept on record.

The findings indicate that the signature of the writ petitioner/Pradhan in the resignation letter was found to be his own signature upon comparison of the same with other specimen signatures of the petitioner that was seized by the investigating agency from the office of the gram panchayat.

The specimen signature was collected in presence of the learned Judicial Magistrate, 3rd Court, Malda and the exhibits were sent to the Director, QDEB CID WB, Bhabani Bhaban Kolkata for examination and opinion. The Examiner of

Questioned Documents Mr. Tarun Kanti Banerjee, CID WB has opined that the person who had executed the short signatures in documents marked C1 to C3, E1, E2, F and the specimen short signatures marked as G1, G2, also executed the disputed short signature marked as A. The reasons for said findings have to be explained in details in the said report. The Court accepts such report.

The Examiner of Questioned Documents, CID, WB is an expert. For the purpose of this proceeding in which the only issue is whether the resignation letter had been signed by the petitioner or not, such opinion is sufficient to dispel all doubts about the authenticity of the resignation letter. No further investigation, examination or cross-examination would be necessary for disposal of this writ petition.

The writ petition was filed challenging the acceptance of the resignation letter by the prescribed authority. The petitioner/pradhan submitted that his signature on such resignation letter was forged and he did not get any opportunity to deny the same before the prescribed authority. This Court was of the opinion that the allegations against the members were very serious in nature and even if they had lost confidence in their Pradhan, they could not employ illegal and underhand means to remove the Pradhan. The Pradhan was directed to continue in his office by

this Court by order dated November 16, 2021. The allegations were against the members/requisitionists. The court directed investigation by the CID West Bengal on the allegation of forgery and asked for a report. The allegation of forgery has been proved to be incorrect.

The petitioner was not removed from his office on the basis of the resignation letter in view of the allegation and also because he did not get a chance to appear before the prescribed authority and clarify that the registration was not wilful.

The petitioner tendered resignation. The same was accepted by the Block Development Officer and the Upapradhan was asked to take over charge as per law. Thereafter, the Pradhan approached this Court with the allegations of non-compliance of Section 10(2), 10(3) and 10(4) of the West Bengal Municipal Act, 1973 and the specific contention of the petitioner was that as the signature was forged on the resignation letter, such fact could have been brought to the notice of the prescribed authority, had he been given an opportunity to place his case. The law provides for an opportunity to the Pradhan to inform the authority that the resignation was not given willingly but under threat and coercion and also to withdraw the letter of registration.

The records reveal that the prescribed authority had issued a notice upon the petitioner to appear before the authority for a hearing on the resignation letter. The contention of the petitioner was that the said notice was not received by the petitioner and the prescribed authority in collusion with the members acted in hot haste and accepted the requisition without due compliance of the provisions of Section 10(3) and 10(4) of the said Act.

The Court having found, prima facie, that the allegations against the members were very serious, thought it prudent to direct a probe by the CID WB specially to ascertain the genuineness of the signature on the letter of resignation. The Pradhan was also not given seven days time to appear at the hearing as per Section 10(3) of the said Act. The Court allowed the Pradhan to accept charge during the pending investigation.

In view of the above circumstances and the contents of the report as narrated hereinabove, this writ petition can be disposed of. The Pradhan continued in his office despite having tendered the resignation letter. The resignation letter was not acted upon as the court permitted the Pradhan to continue. Now, it appears that the signature was genuine.

This writ petition is disposed of on the basis of the report of the investigating agency. The allegations of forgery against the members, insofar as, this proceeding is concerned has not been established. The Court preserves the rights of the members to proceed against the Pradhan before any other forum in accordance with law. The resignation letter not having been acted upon, has lost its force.

The Pradhan can be removed in accordance with law as the members have lost confidence on him. The court does not intend to remove the Pradhan at this moment as the acceptance of the resignation was not preceded by a hearing as contemplated under the law. Sections 10(2) and 10(3) had not been complied with, in letter and spirit. The opportunity to withdraw the letter was not given to the petitioner as contemplated under the law. The order of acceptance was issued in hot haste. The court deprecates such practice of the Pradhan who is trying to hold on to his office in such a dubious way. The members may proceed to remove the Pradhan in accordance with law.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)