

S/L 33
04.01.2022
Court. No. 19
GB

WPA 17723 of 2021

Nilufa Begam
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Sifa Sultan.

...for the Petitioner.

Mr. Subhasish Pachhal.

...for the Respondent No.6.

*Mr. Jahar Lal De,
Ms. D. Sen (Bose).*

...for the State.

The Sub-Divisional Officer, Howrah Sadar issued an order dated September 21, 2021 rejecting the application of the petitioner, who is the Pradhan of Kolorah-I Gram Panchayat under Section 11(1)(d) of the West Bengal Panchayat Act, 1973.

It appears from the said order that there are some factual discrepancies as the records show that the notices of the general body meetings were served upon the respondent No. 6 through his family members.

It is submitted that such service upon the agent of the respondent No. 6 was not accepted by the Sub-Divisional Officer. The order impugned should be set aside as the same was contrary to law and based on incorrect facts.

Mr. Pachhal, learned advocate appearing on behalf of the respondent no.6 submits that the petitioner was suffering from serious illness and was advised bed rest during the period when the meeting was conducted. It is

further submitted that the family members may have received the notices, but such notices were not served upon the petitioner, who was undergoing treatment and as such, the petitioner was unaware of the meetings.

Having considered the rival contentions of the parties, this Court is of the opinion that the Sub-Divisional Officer, Howrah Sadar should revisit the matter once again by going through the records lying in the office of the Gram Panchyat and also on the basis of the submissions with regard to the service of the notices upon the family members of the respondent no.6 and whether the notices were handed over to the respondent no.6.

The order impugned dated September 21, 2021 is set aside in view of the factual discrepancies which is apparent on the face of the record. Without further evidence as to whether the family members who allegedly received the notices on behalf of the petitioner had actually delivered the notices to the petitioner and whether the petitioner at the relevant point of time was in a physical condition to acknowledge such notice and attend the meeting will have to be considered de novo.

The petitioner and the respondent no.6 will be heard. The petitioner shall be entitled to adduce evidence and respondent no.6 shall also be entitled to adduced evidence. The family members, who accepted the notices may be examined before the concerned authority to prove the contention of the respondent no.6.

The matter is remanded for fresh consideration by the Sub-Divisional Officer, Howrah Sadar. A reasoned order shall be passed and communicated to all concerned.

This Court has not gone into the merits of the claims and counter-claims of the parties.

The entire exercise shall be completed within a period of four months from date of 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 server copy of this order.

(Shampa Sarkar, J.)