

17 **08.09.2022**

gd/ssd

MAT/1258/2022
IA NO: CAN/1/2022
THE MALDA BAR ASSOCIATION
VS
STATE OF WEST BENGAL AND ORS.

Mr. Partha Sarathi Bhattacharyya,
Mr. Agniswar Chowdhury,
Mr. Raju Bhattacharyya,
Mr. Tanweer Jamil Mandal
..for the Appellant.

Mr. Nilotpal Chatterjee,
Mr. Amrit lal Chatterjee
..for the State.

Mr. Saikat Chatterjee
..for the Respondent No.4.

Mr. Tanmay Basu,
Mr. Manoj Adak,
Mr. Ambika Sasmal
..for the Respondent No.7.

By this intra court appeal the respondent no.2 in the writ petition has challenged the order of the learned Single Judge dated 14th July, 2022 whereby WPA 12042 of 2022 has been disposed of with a direction to the General Body of the Malda Bar Association to hold the election as per Rules within eight weeks from the date of order.

The respondent no.7 herein (writ petitioner) had approached the writ court with the plea that the elections of the Malda Bar Association had not been

held for last three years, therefore, a prayer was made to appoint the Election Commissioner by the Court for holding the election.

Learned Single Judge has taken note of the fact that the elections of Malda Bar Association were not held after 15.02.2022 and has also considered the position as reflecting in the Rule and accordingly has reached to the conclusion that the excuse for Covid-19 Pandemic cannot be permitted to be taken *ad infinitum* and the elections for the Body must be held as provided under the Rules and By-laws. In the said background, the direction impugned in the present appeal has been issued.

The limited submission of the learned counsel for the appellant is that if now the elections are held in the month of September, 2022, the same will be contrary to Rule 18(a) of the Malda Bar Association Rules and Regulations.

We do not find any substance in such a submission. In accordance with Rule 18(a) the election process ought to have been initiated in the month of January, 2022 which was not initiated, hence, the Member of the Association was compelled to approach the Court. Rule 18(a) requires the Secretary to convene the Annual General Meeting in January every year. The appellant cannot take the benefit of its own wrong of

non-compliance of the Rules. Since the elections had not been held after February, 2022, therefore, learned Single Judge has rightly directed for holding the election within specified time. It may not be out of place to take note of Rule 18(d) of the Rules, which provides that the office bearers of the Association will be deemed to have resigned in the Annual General Meeting but they will be eligible for re-election. Hence, in view of the said Rule, the office bearers have no right to continue.

In the light of the aforesaid position reflected in the Rules, we find that the order of the learned Single Judge does not suffer from any error and no case for interference is made out in this appeal.

The appeal is accordingly dismissed.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

