

06. 14.03.2022
Ct. No.06
Tanmoy

**M.A.T. 1311 of 2021
With
IA No: C.A.N. 1 of 2021**

**Md Noor Ahsan Noor
-Versus-
The State of West Bengal & Ors.**

Md. Nauroz Rahber, Adv.,
Ms. Anjana Meheebub, Adv.,
Mr. Muhammad Jawwad, Adv.

...for the appellant.

Mr. Lalit Mohan Mahata, Ld. Sr. Govt. Adv.,
Mr. Supratim Dhar, Adv.

...for the State.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

This is an appeal against order dated December 3, 2021 whereby the learned Single Judge disposed of W.P.A. 19209 of 2021.

The main grievance with which the writ petitioner had approached the learned Single Judge is that two of the members of the concerned *Gram Panchayat* who signed the notice of requisition of meeting for removal of *Sanchalak* of *Shilpa-O-Parikatham Upa Samity*, mentioned wrong political affiliation in the notice. More particularly, the writ petitioner said that Husneara Begam and Nazma Khatun who are two out of the seven requisitionists, mentioned their political

affiliation as INC and CPI(M) respectively. However, as on that date i.e. November 18, 2021, both of them were members of AITC. Hence, according to the writ petitioner, the notice of requisition stood vitiated being in violation of Section 12(2) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act').

Before the learned Single Judge, the State produced a document showing particulars of successful candidates in the *Panchayat* General Elections, 2018. The said Official Gazette reflected that Husnara Begam's party affiliation was INC and Nazma Khatun's party affiliation was CPI(M). The learned Judge accepted the contention of the State that, that being an official document, it must prevail over any self-declaration or self-affidavit. The learned Judge held that the prescribed authority did not commit any error by acting on the notice of requisition.

Before us, the appellant has contended that it was the duty of the two members who changed their party affiliation, to inform the prescribed authority of such change. In this connection, learned Counsel referred to Section 213A(6) of the said Act.

We have heard learned Counsel for the parties. We cannot subscribe to the view that any change of political affiliation cannot take effect unless and until the same is Gazetted. However, in the present facts of

the case, learned Advocate for the appellant has not been able to demonstrate that there was any material before the prescribed authority on the basis of which he could have detected the so-called wrong mentioning of party affiliation in the notice of requisition. The only document that he had, was the Official Gazette which reflected the party affiliation of the two concerned members as mentioned in the notice of requisition. Hence, we are of the view that it cannot be said that the prescribed authority acted with any material irregularity.

In view of the aforesaid, we do not find any reason to interfere with the order impugned.

The appeal being M.A.T. 1311 of 2021 and the connected application being IA No: C.A.N. 1 of 2021 are accordingly dismissed.

Let urgent photostat certified copies of this order, if applied for, be supplied to learned Advocates for the parties upon compliance with all usual formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)