

S/L 10
21.09.2022
Court. No. 19
GB

W.P.A. 21432 of 2022

Baishakhi Mandal & Ors.
VS
The State of West Bengal & Ors.

Mr. Dip Jyoti Chakraborty,
Mr. Sumit Banerjee.

...for the Petitioners.

Ms. Sweta Mukherjee,
Mr. Anupam Das Adhikary.

...for the State.

Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay.

...for the Respondent No.5.

The writ petition has been filed by 14 persons, who were allegedly engaged as additional work force at Amrity Gram Panchayat sometime in 2017, on the basis of an alleged panel dated January 25, 2022. It is contended that the names of the petitioners and other persons totaling to 25, had been forwarded to the Block Development Officer, English Bazar and the Additional Executive Officer of Malda Zilla Parishad. A photocopy of the said panel has been annexed to the writ petition.

The Pradhan of Amrity Gram Panchayat was removed. It is alleged that the subsequently elected Pradhan committed certain illegalities and cancelled the panel without any authority under the law and without any notice to the persons empanelled. Subsequently, a new panel was prepared. The petitioners raised objections. An enquiry was conducted by the Block Development Officer, English Bazar Development Block. The enquiry report was submitted before the Additional District Magistrate, Malda, who is also

the Additional Executive Officer of the Malda Zilla Parishad. The said authority directed the Block Development Officer, English Bazar Development Block to engage the persons empanelled in the panel dated January 25, 2022 being Memo No.92/AGP/2022 and also to release their honorarium on the basis of their performance report.

The petitioners again complained before the District Magistrate and other authorities by filing a demand of justice dated July 29, 2022. It appears that the Special Secretary to the Government of West Bengal, Panchayat and Rural Development Department requested the Additional Executive Officer, Malda Zilla Parishad to enquire into the matter and file a report before the authority.

Mr. Das, learned advocate appearing on behalf of the Pradhan submits that the panel dated January 25, 2022 was given effect to and third party rights have been created. The work force deployed, are already working. Mr. Das further submits that the alleged panel, in which the names of the petitioners appeared, had no approval and no engagement letters were given to the petitioners.

It is on record that the allegations of the petitioners have been given due weightage and the Government has initiated an enquiry. Thus, unless the enquiry is completed and steps are taken on the basis thereof, this Court refrains from entering into the merits of the allegations made by the petitioners. In any event, as third party rights have been created and persons who have been engaged are not before

the court, the prayer for stay of operation of the alleged panel cannot be granted.

In any event, the dispute as to whether the panel should be given weightage or had been prepared correctly by the authority, is pending enquiry. The petitioners are at liberty to raise all their allegations before the Additional Executive Officer, Malda Zilla Parishad with regard to the panel dated January 25, 2022 bearing Memo No.92/AGP/2022 and the petitioners shall be entitled to be represented by a learned advocate. The petitioners shall be entitled to file all related documents in support of their contentions. The Block Development Officer and the Pradhan of Amrity Gram Panchayat shall also be heard and allowed to file their written versions and documentary evidence in respect of the panel dated January 25, 2022. All the parties shall be entitled to be represented by their learned advocates at the time of enquiry. The persons who have been enlisted in the panel dated January 25, 2022 shall also be represented before the enquiring authority through their learned advocate. Upon assessment of the records, evidence and the written versions, a report shall be prepared and submitted before the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal along with copies to all the respective parties. Thereafter, the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal shall take necessary steps in accordance with law.

Needless to mention that all steps which have been taken in the meantime, shall automatically abide by the decision of the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal.

If the allegations are proved to be correct and the authorities find that there were illegalities in the process, necessary orders in this regard shall be passed by the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal and he shall also be at liberty to take appropriate legal action, as permissible under the law.

This Court has not gone into the merits of the claims and counter-claims of the parties, in view of the pendency of an enquiry by the appropriate authority.

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.)