

22.11.2022
Court No. 19
Item 49 (ML)
CP

W.P.A. No. 23641 of 2022
Abdur Rahaman Halder & ors.
Vs.
The State of West Bengal & Ors.

Mr. Kanai Lal Mondal
Mr. Rajat Kr. Dhar
Mr. A. Chatterjee

....for the petitioners.

Mr. Lalit Mohan Mahata

....for the State.

Despite service, none appears either on behalf of the Pradhan or the Secretary of Hariharpur Gram Panchayat.

As this court is not inclined to pass any mandatory direction as prayed for in the writ petition, the matter is taken up in the absence of the Pradhan.

The petitioner prays for a direction upon the prescribed authority to call for a meeting in terms of the provisions of Sub-Rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975 (hereinafter referred to as 'the said rules').

It appears that pursuant to a liberty granted by a co-ordinate Bench by an order dated September 7, 2022, the petitioner and some of the members of the concerned gram panchayat brought a motion on

September 8, 2022. The prescribed authority did not take steps. The petitioner sent a reminder. Still no steps were taken. In the meantime, two months have lapsed since the motion was brought.

It also appears that on November 21, 2022, the prescribed authority issued a notice requiring the members to attend a meeting. Some of the signatories in the motion had written a letter to the prescribed authority that they had not signed on the said document. The prescribed authority called the meeting in this regard.

Sections 12(3) and 12(4) of the West Bengal Panchayat Act, 1973 categorically provide the time limit which has to be followed by the prescribed authority. In this case, the motion was originally submitted on September 8, 2022. On September 13, 2022, some of the signatories filed an objection, denying their signature on the motion. The prescribed authority did not call the meeting. The time limit fixed by law has automatically lapsed and this court cannot extend such time limit by rewriting the statute. It is not a case where the petitioners had approached the court within the prescribed time. The requisition dated September 8, 2022 has died a natural death. The same cannot be acted upon.

Under such circumstances, the requisitionists are granted liberty to bring a fresh requisition in

accordance with law. If the said requisition is brought, the prescribed authority shall reach the requisition to its logical conclusion upon complying with the provisions of Sections 12(3) and 12(4) onwards of the West Bengal Panchayat Act, 1973, by strictly adhering to the time limit fixed by the statute under Section 12(10) of the said Act. The bar under Section 12(11) shall not apply as this is not a case that the requisition failed for want of quorum or could not be carried through.

It is further made clear that the prescribed authority shall be entitled to seek police protection and if such request is made, the police authority shall render all support to the requisitionists as also to the prescribed authority without any delay and laches. It is also made clear that in addition to sending the requisition by registered post to the residence and office of the Pradhan, the requisitionists shall be entitled to serve the requisition in the office of the Pradhan directly to the Pradhan or through the secretary or assistant and if, such service is not accepted, then the requisitionists will be entitled to paste the same in the office of the Pradhan.

Learned advocate for the prescribed authority is directed to communicate to the prescribed

authority, the consequence of repeated non-compliance of the orders of this court.

The court is of the view that if there were reasons for not calling the meeting or the motion was not found to be in order, the prescribed authority should have communicated the same within five working days from receipt of the motion.

A copy of this order shall also be communicated to the Pradhan and to the Secretary of the concerned gram panchayat and the Secretary shall communicate this order to all the other members.

This writ petition is, thus, disposed of. There will be no order as to costs.

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

(Shampa Sarkar, J.)