

D/L
Item No. 2
22.12.2022
KOLE

**MAT 1959 of 2022
With
IA No. CAN 1 of 2022**

**Shila Chatterjee & Ors.
-Vs.-
The State of West Bengal & Ors.**

*Mr. Pratik Dhar, Sr. Adv.
Mr. Koustav Bagchi,
Mr. D. Ghosh,
Mr. Priti Kar,
Mr. C. Roy,*

...for the appellant.

*Mr. Anirban Roy, Ld. GP,
Mr. Raja Saha,
Mr. D. Sahoo,
Mr. Arka Kr. Nag,*

...for the State.

*Mr. Suman Sengupta,
Mr. Dip Jyoti Chakraborty,*

...for the vice-chairman.

Mr. Phiroze Edulji,

...for the respondent no. 13.

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

This appeal is directed against an *interim* order dated December 5, 2022, passed in WPA 26900 of 2022 by the learned Single Judge.

The appellants say that on November 21, 2022, the then Chairman of the Jhalda Municipality was removed by the majority of the members at a duly constituted meeting. Law required a new Chairman to be elected within seven days. This was not done. On November 28, 2022, the Vice-Chairman tendered resignation.

The requisite number of members convened a meeting to be held on December 3, 2022, for electing a Chairman of the Municipality.

It appears that on December 2, 2022, the State Government appointed one, Smt. Jaba Machhuwar, being the respondent no. 13 herein, as the Chairperson of the Municipality. The meeting scheduled to be held on December 3, 2022, was duly held and the appellant no. 1 claims that she was elected as the Chairperson of the Municipality. This is disputed by learned Counsel for the respondent no. 13.

Upon coming to know from the media that the State Government had appointed the respondent no. 13 as the Chairperson on December 2, 2022, the appellants approached the learned Single Judge by filing WPA 26900 of 2022, challenging such appointment.

By the impugned order, the learned Judge stayed the operation of the State Government order appointing the respondent no. 13 as Chairperson of the Municipality. The learned Judge has directed the District Magistrate, Purulia to act as Administrator of the Municipality for the purpose of managing the day to day affairs of the Municipality until further orders. Being aggrieved the appellants are before us.

The grievance of the appellants is that the appellant no. 1 having been elected as Chairperson on December 3, 2022, there was no reason for the learned Judge to direct the District Magistrate to act as the Administrator of the

Municipality. The appellant no. 1 should have been permitted to act as the Chairperson of the Municipality.

We have heard learned Counsel for the parties. The order impugned is only an *interim* order. The arrangement made by the stay order is *ad hoc* in nature. The matter has been made returnable by the learned Judge on January 3, 2023. The learned Judge has directed exchange of affidavits for full disclosure of facts.

In the aforesaid scenario, we are not inclined to entertain this appeal. We are of the view that the learned Judge should decide the writ petition on merits upon exchange of affidavits.

We have not gone into the merits of the disputes between the parties.

Since we have not called for affidavits, the allegations made in the stay application are deemed not to be admitted by the respondents.

The appeal and the connected application are accordingly disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)