

20.01.2023
Item No. 04.
Court No.6.
S. De

**F.M.A. 1399 of 2022
with
I.A. No. CAN/1/2022**

**Baishakhi Mandal & Ors.
Vs
The State of West Bengal & Ors.**

Mr. Chittaranjan Chakraborty,
Mr. Dipjyoti Chakraborty,
Mr. Sumit Banerjee,
...for the appellants.
Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay,
...for the respondent no.5.
Ms. Sweta Mukherjee,
Mr. Anupam Dasadhikari,
...for the State.

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

A judgment and order dated September 21, 2022, whereby the writ petition of the appellants being WPA 21432 of 2022 was disposed of, is under challenge in this appeal.

The appellants, being fourteen in number, approached the learned Single Judge with the case that they had been engaged as additional work force at Amrity Gram Panchayat sometime in 2017. They alleged that a panel prepared subsequently in 2021 reflected the names of the writ petitioners. Without cancelling such panel, the concerned authorities

prepared another panel wherein the names of friends and relatives of the authorities were included and the names of the writ petitioner were excluded. Allegations of nepotism and favouritism were made.

The learned Judge recorded the submission made on behalf of the State that an enquiry has been initiated by the State Government and the Additional Executive Officer, Malda Zilla Parishad who is the Additional District Magistrate, has been entrusted with the conduct of the enquiry with regard to the validity of the panel dated January 25, 2022. The learned Judge granted full opportunity to the writ petitioners to participate in the enquiry before the Additional District Magistrate. The learned Judge directed the report of the Additional District Magistrate to be placed before the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal who was directed to take necessary steps in accordance with law. The learned Judge further clarified that all steps which have been taken in the mean time, shall abide by the decision of the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal. Finally, the learned Judge observed that if the allegations of the writ petitioners are proved to be correct and the authorities find that there were illegalities in the process, necessary orders in that regard shall be

passed by the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal.

Being aggrieved, the writ petitioners have come up by way of this appeal.

The sole point urged before us is that since the allegations are of a very serious nature, it would be appropriate if the District Magistrate holds the enquiry instead of the Additional District Magistrate.

We find some substance in such submission. Further, learned advocate for the State does not have any objection to such course of action.

Learned advocate for the Pradhan however, says that it is not necessary that the District Magistrate should be substituted in the place of the Additional District Magistrate. The allegations are frivolous and completely devoid of merits. The Panchayat will be at liberty to argue such point before the authority conducting the enquiry.

We are of the considered opinion that in view of the allegations of corruption, nepotism and favouritism, which are quite serious allegations against the Pradhan and Upo-Pradhan of the concerned Panchayat, it will be in the fitness of things, if the District Magistrate who is the administrative head of the concerned District, conducts the enquiry instead of the Additional District Magistrate. This will

however, not be taken to be any reflection on the efficiency or competence of the Additional District Magistrate.

Accordingly, we modify the order under appeal only to the extent that the District Magistrate, Malda District, shall carry forward the enquiry that is pending before the Additional District Magistrate and shall file a report before the Special Secretary, Panchayat and Rural Development Department, Government of West Bengal as expeditiously as possible. The other portions of the order under appeal remain unaltered.

We have not gone into the correctness or otherwise of the allegations made by the writ petitioners. The District Magistrate who will henceforth be the enquiring authority will take a decision in that regard after giving opportunity of hearing to all concerned parties.

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

F.M.A. 1399 of 2022 is disposed of along with the application being I.A. No. CAN 1 of 2022.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)