

S/L 11
16.01.2023
Court. No. 19
GB

W.P.A. 28994 of 2022

Md. Anarul Hoque & Anr.
VS
The State of West Bengal & Ors.

*Mr. Sunil Gupta,
Mr. H. Islam*

...for the Petitioners.

*Ms. Sutapa Sanyal,
Mr. Anand Farmania*

...for the State.

*Mr. Uday Narayan Betal,
Mr. Somnath Adhikary*

...for the Respondent No.5.

It is an admitted position that the post of the Pradhan of Lochanpur gram panchayat fell vacant on the passing of a motion of 'no confidence'. The Pradhan was removed by an order of the prescribed authority dated April 22, 2022. The meeting for election of the new Pradhan was scheduled on May 23, 2022 but, on the scheduled date, the meeting was adjourned due to want of quorum. The Upa-Pradhan was handed over charge, but the adjourned meeting was never convened.

The learned advocate for the petitioners refers to the Rule 6(2) of the West Bengal Panchayat (Constitution) Rules, 1975 and submits that in case the meeting for election of a Pradhan fails due to want of quorum, the Presiding Officer shall adjourn the meeting and the adjourned meeting shall be held on such date or place or time as may be fixed by the prescribed authority. The provision regarding notice to the members referred to in Sub-Rule (1) of Rule 6 shall

however, apply. The first proviso to the said Rule states that in an adjourned meeting, at least three members shall form a quorum.

Thus, the petitioner has moved this Court for a direction upon the prescribed authority to hold the adjourned meeting.

The learned advocate for the Upa-Pradhan submits that although the Upa-Pradhan was asked to discharge the duties of the Pradhan as per law, complete financial independence was not given and as such, the members of the gram panchayat as also the Upa-Pradhan had to incur expenses from their personal funds without there being any financial support. Several representations have been filed by the Upa-Pradhan with regard to reimbursement of the money already spent and for other financial support so that the activities of the gram panchayat can be carried on without any disruption.

The petitioners are some of the requisitionists who had brought the motion for removal of the Pradhan. The petitioners contend that the election is necessary in order to put an end to certain un-called for activities of the Upa-Pradhan.

These issues with regard to the allegations and counter-allegations between the petitioners and the Upa-Pradhan are not relevant for the purpose of adjudication of the writ petition.

However, the Court finds that the prescribed authority did not comply with the provision of Rule 6(2) of

the West Bengal Panchayat (Constitution) Rules, 1975. The prescribed authority waited for permission from the District Panchayat Election Officer. The prescribed authority approached the District Panchayat Election Officer on May 24, 2022 in this regard. Probably, the prescribed authority was under the impression that as the meeting could not be held and was adjourned by the Presiding Officer for want of quorum, formal permission from the District Panchayat Election Officer would be necessary. It also appears that the prescribed authority also anticipated law and order problems and had approached the Officer-in-Charge, Islampur Police Station, Murshidabad for assistance.

Be that as it may, the law is clear that the meeting ought to be held as an adjourned meeting and not as a fresh meeting with permission from the District Panchayat Election Officer. A quorum of three members shall be sufficient in the adjourned meeting. A seven days' notice must be issued to the members by the prescribed authority before the meeting can be held.

The writ petition is disposed of with a direction upon the Block Development Officer, Raninagar-I Development Block to issue the notice convening the meeting within 48 hours from the date of communication of this order and serve the same upon all the members of the Lochanpur gram panchayat. The date of the meeting shall be fixed upon expiry of seven days from the date of the notice. The new Pradhan will be elected in accordance with law. The Officer-in-Charge, Islampur Police Station shall provide all

assistance on the date of the meeting, in order to prevent any untoward incident.

It is made clear that only the members and staff of the concerned gram panchayat, the prescribed authority and persons assisting the prescribed authority, shall be allowed at the meeting.

The Upa-Pradhan and the members are at liberty to approach the authority for redressal of their grievances which have not yet been considered, despite several representations.

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.)