

15.07.2024
Item No.24
Ct. No.15
S.A.

WPA 259 of 2024

Pranab Kar
-vs-
The State of West Bengal & Ors.

Mr. Puspall Chakraborty
Mr. Prisanika Ganguly
...for the petitioner
Mr. Saikat Chatterjee
...for the Municipality
Mr. L. M. Mahata
Mr. Jagabandhu Roy
...for the State

It is not in dispute that the petitioner was the Chairman of Suri Municipality. He resigned from the post of Chairman on August 4, 2023, which was accepted by the Board of Councillors of the Municipality on August 5, 2023.

The petitioner in this writ petition, however, does not challenge the acceptance of his resignation as Chairman of the Municipality. He seeks to challenge the acceptance of his resignation as a Councillor.

It appears that the petitioner tendered his resignation as a Councillor of the Municipality on August 4, 2023. Immediately, thereafter, the petitioner by a letter dated August 16, 2023 withdrew the resignation.

The Board of Councillors, by a resolution dated August 19, 2023 accepted the resignation with the following observations :

“Today at about 1:00 P.M. the Chairman along with other Councillors who have signed in this resolution subsequently, are present within the Suri Municipality Office premises, but even passing of one hour, now the time is 2 P.M., neither Mr. Pranab Kar himself nor anyone of his behalf have appeared to present his submission. Now all the respectable members have decided to wait for half an hour more. Now the time is 2:40 P.M. it is unanimously decided that Mr. Pranab Kar is not willing to come forward to defend himself by presenting his own submission so, this house again unanimously decided to ignore the letter dated 16.08.2023 of Mr. Pranab Kar rather to consider his letter date 04.08.2023, where Mr. Pranab Kar himself have decided to withdraw himself as a Councillor due to his health condition.

Hence, this Board of Councillor have decided to accept the letter dated 04.08.2023 of Mr. Pranab Kar and finally unanimously have taken the resolution to cancel the position of Mr. Pranab Kar as a Councillor under the Suri Municipality. It is further decided such Copy of the Resolution will be forwarded very soon before the concern authorities.”

The petitioner submits that he had not received any notice of the meeting held on August 19, 2023.

Learned Advocate appearing for the Municipality submits that even if it is accepted that

the petitioner was not served with the notice of the meeting, the Board of Councillors could have accepted the resignation.

The relevant provision relating to resignation of a Councillor is quoted below :

“21A.(b) He resigns his office by writing under his hand addressed to the Chairman and the resignation is accepted by the Board of Councillors at a meeting in which case the resignation shall take effect from the date of its acceptance.”

I am of the view that the said Section 21A(b) is applicable in a case where a Councillor tenders his resignation, but in a case where the resignation is withdrawn before its acceptance, there is no occasion on the Board of Councillors to accept the resignation.

Therefore, I am unable to sustain the resolution dated August 19, 2023, adopted by the Board of Councillors.

It is a trite law that a resignation letter cannot be acted upon if the same is withdrawn before its acceptance. [See: (2006) 10 Supreme Court Cases 258 (Chand Mal Chayal vs. State of Rajasthan)].

The resolution does not reflect what really prompted the Board of Councillors to accept the resignation letter dated August 4, 2023, and ignore the withdrawal of the resignation dated August 16, 2023, in absence of the petitioner.

In that view of the matter, the resolution dated August 19, 2023, is set aside. The Municipality shall allow the petitioner to function as a Councillor of the Municipality immediately.

Accordingly, **WPA 259 of 2024** is allowed.

(Kausik Chanda, J.)