

06 05.03.2024
rkd Ct.15

W.P.A. 12544 of 2018

Sri Rabindra Nath Ghosh & Ors.

-vs-

Union of India & Ors.

Mr. Chittapriya Ghosh,
Mr. Goutam Acharya,
Ms. Priyanka Saha

....for the petitioners.

Mr. Kumar Jyoti Tewari

....for the respondent no.1.

Mr. Sayak Chakraborti,
Mr. Sandipan Sanangi,
Mr. Wrickbrata Roy

....for the respondent no.11.

Mr. Uttam Kumar Bhattacharyya

....for the respondent no.13.

Mr. Santanu Kumar Mitra,
Mr. Amartya Pal

....for the State.

Twenty petitioners who are residing within the jurisdiction of Bibhishanpur Gram Panchayat in the district of Purba Medinipur have approached this Court with the present writ petition, *inter alia*, questioning exclusion of their names from the list of candidates finally prepared by the Gram Sabha of Bibhishanpur Gram Panchayat by holding a meeting of the said Gram Sabha on 27th July, 2016.

According to the petitioners they are entitled to receive the benefits under Pradhan Mantri Awaas Yojana – Grameen (hereinafter referred to as “PMAY-G”) for getting assistance from

the concerned authorities in order to construct their dwelling houses.

It has been submitted by Mr. Ghosh, learned advocate representing the petitioners that names of the petitioners were included in the list based on the enquiry conducted by the Executive Officer, Bhagwanpur-I Panchayat Samity and the report of the enquiry in a tabular form is annexed at pages 21 to 24 of the affidavit-in-opposition affirmed by the Block Development Officer, Bhagwanpur-I Development Block disclosing the enquiry report in a particular column of the said table.

It has been contended on behalf of the petitioners that surprisingly in the report filed on behalf of the Prodhan, Bibhishanpur Gram Panchayat being respondent no.11 in paragraph 5 a different table has been included disclosing the reasons for exclusion of names of the petitioners from the list of beneficiaries of PMAY-G Scheme. It is also contended that the reasons disclosed on behalf of the concerned Gram Panchayat through its Gram Sabha is not tallying with the enquiry report specifically disclosed in the column in a table in the affidavit-in-opposition affirmed by the concerned Block Development Officer.

According to the petitioners this discrepancy is sufficient to set aside the decision of the Gram Sabha of the concerned Gram Panchayat to exclude the names of the petitioners since such decision would debar the petitioners from getting the benefits of PMAY-G Scheme.

Prodhan of Bibhishanpur Gram Panchayat being respondent no.11 is represented by the learned advocate who has made submission based on the report filed in the form of affidavit affirmed on 8th January, 2024 by the Prodahn disclosing in paragraph 5 the table containing reasons of exclusion. On query being made to the learned advocate representing the respondent no.11 relating to inconsistency which has been detected in between the decision of Gram Sabha while disclosing the reasons for exclusion the names of the petitioners and the enquiry report of the Block Development Officer it has been submitted by the learned advocate that materials being the basis of formation of opinion which ultimately went against the petitioners that led to exclude names of the petitioners from the list of beneficiaries under PMAY-G Scheme are not available on record; therefor the Gram Panchayat is not in a position to substantiate its case in order to vindicate the

decision of Gram Sabha taken in the meeting dated 27th July, 2016 based on which list is prepared which is in paragraph 5 of the said report.

Mr. Mitra, learned advocate representing the State respondents has drawn attention of this Court to the affidavit-in-opposition affirmed by the concerned Block Development Officer in order to demonstrate that on receipt of the letter by the Joint Secretary Panchayat and Rural Development Department wherein grievance of the petitioners was ventilated; the Joint Secretary forwarded the same to the Additional Executive Officer of the Zilla Parishad vide memo dated 30th August, 2017 to cause enquiry into the matter and the Additional Executive Officer forwarded the matter to the concerned Gram Panchayat for holding Gram Sabha/Special Gram Sabha for consideration of the names of the petitioners in order to get the benefit under PMAY-G Scheme.

It has been contended on behalf of the State respondents that the Gram Sabha in its turn has taken decision which is disclosed in a tabular form as contained in paragraph 5 of the affidavit affirmed by the respondent no.11.

On juxtaposing two tables one contained in paragraph 5 of the report of respondent no.11 and

another annexed at pages 21 to 24 of the affidavit-in-opposition affirmed by the concerned Block Development Officer it transpires the enquiry report is not tallying with the reasons as disclosed by the Gram Sabha while excluding the names of the petitioners from the list of beneficiaries under PMAY-G Scheme. Therefore, in consideration of such inconsistency as existing in between the enquiry report based on the enquiry conducted by the concerned Executive Officer, Bhagwanpur-I Panchayat Samity and the reasons assigned by the Gram Sabha of the concerned Gram Panchayat and in the backdrop of the submission made on behalf of the respondent no.11 that the office of the respondent no.11 does not have supporting records in order to vindicate the decision of the Gram Sabha the said decision of the Gram Sabha as taken in its meeting dated 27th July, 2016 is set aside whereby names of the petitioners were excluded from the list of beneficiaries under PMAY-G Scheme as a result whereof the table which has been disclosed in paragraph 5 of the report of the respondent no.11 shall not be given any credence in future in order to decide the eligibility of the petitioners to get the benefit under PMAY-G Scheme.

Additional District Magistrate (G), Purba Medinipur is directed to find out the eligibility of the petitioners to get the benefit under PMAY-G Scheme based on the enquiry report already prepared by the concerned Executive Officer which has been annexed to the affidavit-in-opposition affirmed by the concerned Block Development Officer and to publish the final list so far the petitioners are concerned within a period of twelve weeks from the date of communication of this order.

Before completing the aforesaid exercise the Additional District Magistrate (G) shall hear one representative of the petitioners as well as concerned Block Development Officer or any Officer authorised by him and the Additional District Magistrate (G) shall also consider the records maintained in the Office of the concerned Block Development Officer for finalisation of the list.

The list to be prepared by the Additional District Magistrate (G) shall be communicated to the petitioners as well as the concerned Block Development Officer within one week thereafter.

If the list contains names of the petitioners as eligible candidates to get the benefits under PMAY-G Scheme consequential steps shall be taken

immediately thereafter by the concerned authorities for extending the benefits under the said scheme.

Since Additional District Magistrate (G) has not been formally arrayed as respondent in this writ petition, leave is granted to the learned advocate for the petitioners to amend the cause title of this writ petition in course of this day and add Additional District Magistrate (G) as additional respondents.

However, service of notice upon the added respondent stands dispensed with since the State respondents are represented by Mr. Santanu Kumar Mitra, learned advocate.

With the aforesaid directions and observations the writ petition stands disposed of.

However, there shall be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned Advocates for the parties on the usual undertakings.

(Saugata Bhattacharyya, J.)