

Court No. 2
26.6.2024
(Item No. 18)
(AB)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side
W.P.A. 16087 of 2024

Minarul Islam
VS
The State of West Bengal & Ors.

Mr. Samim Ahammed
Mr. Arka Maiti
Mr. Ambiya Khatun
.... For the petitioner
Mr. Santanu Mitra
Mr. Pradyot Kumar Das
.... For respondent Nos. 1 to 5
Md. Sarwar Jahan
Ms. Tapati Sarkar
.... For private respondents

Affidavit of service filed in Court today, is
taken on record.

Mr. Arka Maiti, learned advocate appears for
the petitioner.

Mr. Santanu Mita, learned State advocate
appears for respondent Nos. 1 to 5.

Mr. Sarwar Jahan, learned advocate appears
for respondent Nos. 7 and 8.

The petitioner is a Panchayat member and
leader of a recognized political party. He submits
that, the private respondent Nos. 7 and 8 have
changed their political party after becoming elected as
member of the relevant Panchayat. Invoking the
provisions under **Section 213(A)** of the **West Bengal
Panchayat Act, 1973**, the petitioner has submitted
an application on **April 15, 2024, annexure P-1** at
page 15 to the writ petition seeking a declaration that

the private respondents are disqualified to remain in the board of Panchayat, on the ground of change of their political party. The said application is required to be disposed of by the prescribed authority defined under **Sub-section 1 to Section 213(A)** of the **Panchayat Act** within the time framed there under the Act, the same is still pending.

Today when the writ petition has been taken up for consideration learned State counsel has produced a notice dated **June 25, 2024** issued by the respondent No. 4 being the prescribed authority as referred to above intimating the petitioner that the date of hearing has been fixed on **July 3, 2024 at 12.00 noon**. Copy of the said notice is taken on record. Copy has also been made over to the learned counsel for the petitioner.

Md. Sarwar Jahan, learned counsel appearing for the private respondent Nos. 7 and 8 submits that, the said application filed by the petitioner is liable to be dismissed at the threshold, as the same does not qualify the test laid down under **Rule 5** of the **West Bengal Panchayat (Members' Disqualification) Rules 1994**.

After considering the rival contentions of the parties and upon perusal of the materials on record the Prescribed Authority, as referred to above, shall deal with and dispose of the application filed by the

petitioner positively within a period of **eight weeks** from **July 3, 2024**, the date fixed for commencement of hearing after granting opportunity of hearing to the petitioner and the private respondent Nos. 7 and 8 and by passing a reasoned order in accordance with law. The prescribed authority then shall communicate its reasoned order to the petitioner and the private respondents positively within a further period of **two weeks** from the date of the reasoned order to be passed.

It is made clear that, this Court has not gone into the merits of the rival contentions raised before this Court by the parties recorded above. The petitioner and the private respondents shall be free to urge whatever points they wish to urge by relying upon whatever records and documents by relying upon before the prescribed authority under the statute but the same shall not travel beyond the scope of the application filed by the petitioner at **page 15** to the writ petition.

In the event, the application succeeds; all necessary and consequential steps shall be taken by the appropriate authorities under the statute, strictly in accordance with law.

It is made clear that, this order shall not create any right or equity either in favour of the petitioner or in favour of the private respondents and the

application shall be decided by the prescribed authority by applying its independent mind and without being influenced by observation, if any, made by this Court but strictly in accordance with law.

Since affidavits are not called for, the allegations made in this writ petition are deemed not to have been admitted by the respondents.

On the above terms, this writ petition **W.P.A 16087 of 2024** stands **disposed of**, without any order as to costs.

Urgent certified photo copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Aniruddha Roy, J.)