

05.07.2024
Ct. No. 2
Sl. No. 21
tbsr

WPA 16945 of 2024

Sahanara Bibi
Vs.
The State of West Bengal & Ors.

Ms. Salma Sultana Shah
Mr. Sani Hossain
Mr. Miraj Hossain
Ms. Senha Sarkar
Mr. Md. Habibur Rahaman
....for the petitioner

Mr. Ashim Kr. Ganguly
Ms. Jayeta Mitra (Kaunda)
....for the respondent nos. 1 to 4

Mr. Shuvra Prakash Lahiri
Mr. Rajesh Naskar
Mr. Jenifar Alam Megha
Mr. Akash Saha
....for the respondent no. 5

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

Mr. Sani Hossain, learned counsel appears for
the petitioner.

Mr. Shuvra Prakash Lahiri, learned counsel
appears for respondent no. 5, the Pradhan of the
concerned Gram Panchayat.

Mr. Ashim Kumar Ganguly, learned Additional
Government Pleader appears for respondent nos. 1 to
4.

The petitioner claims to be the leader of the
opposition of the relevant Gram Panchayat.

The allegation of the petitioner is that, while issuing a tender for certain types of construction work evident from **Annexure P-2 at page 17** to the writ petition, the **Artha O Parikalpana Upa Samiti** of the Gram Panchayat did not invite the petitioner while taking the decision for issuing the subject tenders and thereby failed to perform its statutory obligation in terms of **Sub-Section 3(d) of Section 32(A) of the West Bengal Panchat Act, 1973**, hence this writ petition.

Learned counsel appearing for the Pradhan submits that, despite due notice being served upon the petitioner, she failed and neglected to attend the relevant meeting and plenty of resolutions had already been taken by the Panchayat where on the issues, where she choose not to be represented deliberately. He further submits that, even though the leader of opposition is not present in a meeting of the Panchayat, despite notice, the meeting can be proceeded with and resolution can be adopted in terms of **Rule 17 of the West Bengal Panchayat (Accounts, Audit and Budget) Rules, 2007**.

Therefore, there was no irregularity or illegality in the procedure adopted by the Panchayat to proceed with the tender process.

Learned Additional Government Pleader appearing for the State respondents submits a communication dated **June 26, 2024** issued by the respondent no. 4 to the Pradhan showing in view of the complaint lodged by the petitioner, the tender process has been with held until further order. Copy of the said communication was also marked to the petitioner. The said communication is taken on record.

In view of the above, the respondent no. 4 shall decide the issue after granting an opportunity of hearing to the petitioner in a hearing to be held on **July 17, 2024** and **July 18, 2024** at the office of the respondent no. 4 and the hearing shall commence at 12 noon every day.

The respondent no. 4 shall also serve a prior hearing notice of at least **seven days** to all the interested parties including the Pradhan of the concerned Gram Panchayat who shall also be granted an opportunity of hearing by the respondent no. 4.

On every occasion after conclusion of hearing a minute shall be drawn up containing the signatures of the attending parties.

The respondent no. 4 shall decide the issue by passing a reasoned order in accordance with law.

It is made clear that this Court has not gone into the merits of the case made out in the writ

petition in any manner neither has it gone on the merits of the submissions made on behalf of other parties to the writ petition.

The attending parties in the hearing shall have liberty to urge whatever points they wish to urge by relying upon whatever records and documents they wish to rely upon before the respondent no. 4 but the same shall not travel beyond the issue canvassed in this writ petition.

The entire exercise, as directed above, shall be carried out and completed by the respondent no. 4 positively within a period of **four weeks** from the date of commencement of hearing. The respondent no. 4 then shall communicate its reasoned order to all the parties who shall attend the hearing positively within a further period of **two weeks** from the date of the said reasoned order to be passed.

It is made clear that this order shall not create any right or equity in favour of the petitioner in the event the petitioner is not eligible to succeed to the issue raised by him in the writ petition 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.

With the above observations and directions, this writ petition, **WPA 16945 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.)