

21.05.2025
Sl. No. 25.
Ct.No.39.
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 19783 of 2024

**Saddam Hossain
Vs.
The State of West Bengal & Ors.**

Mr. Robiul Islam
Mr. Shamim ul Bari
..for the petitioner

Mr. Lalit Mohan Mahata, Ld. AGP
Mr. Ziaul Haque
...for the State.

Affidavit of service filed on behalf of the petitioner
is taken on record.

This writ petition is filed seeking direction upon
the Prescribed Authority and Sub-Divisional Officer,
Malda Sadar, respondent no.4, to take immediate steps
to initiate and complete the disqualification proceedings
for cancellation of membership of respondent nos.8 and
9 in terms of petitioner's application dated 27th
February, 2024, within a stipulated period.

Mr. Robiul Islam, learned Advocate for the
petitioner submits that despite there being
representation made before the Prescribed Authority and
Sub-Divisional Officer, Malda Sadar, for cancellation of
membership of respondent nos.8 and 9, no steps have
been taken by the Prescribed Authority in accordance
with law. He seeks appropriate direction be issued upon

the Prescribed Authority and Sub-Divisional Officer, respondent no.4, for taking appropriate steps.

On the contrary, Mr. Lalit Mohan Mahata, learned Additional Government Pleader submits that the application made before the Prescribed Authority and Sub-Divisional Officer, Malda Sadar, respondent no.4, dated 27th February, 2024 has not made in accordance with Section 213A of West Bengal Panchayat Act, 1973 inasmuch as the petition has not been endorsed either by the General Secretary or the Secretary of the District unit of such recognised political party of the petitioner.

Despite service none appears on behalf of respondent nos. 8 & 9.

Upon hearing the learned Advocates for the respective parties, it is apposite to reproduce the relevant provisions under Section 213A(7) of the said Act:

“(7) The Leader of any recognised political party referred to b-section (3) may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary of the district unit of such recognised political party to the prescribed authority referred to in sub-section(1), stating that –

(a) one or more members of such recognised political party, have -

(i) voluntarily given up his or their membership of such recognised political party, or

(ii) have exercised the voting right contrary to the manner of voting of the majority members set up by such recognised political party inn the Panchayat, or

(b) the member referred to in sub-section (4) has voluntarily given up his membership of the recognised political party that set him up, or

(c) the member referred to in sub-section (5) has joined a recognised political party on the expiry of six months from the date of election, and that such member or members should be declared to be disqualified under sub-section (1) and should be removed from the Panchayat.”

Upon bare reading of the aforesaid provision it appears that the leader of any recognised political party

referred to sub-section (3) of Section 213A of the Act may at any time file a petition endorsed by the General Secretary, or, if there is no General Secretary, the Secretary of the district unit of such recognised political party to the Prescribed Authority referred to in sub-section (1) seeking disqualification of a member.

On perusal of the petition dated 27th February, 2024 filed by the petitioner before the Prescribed Authority and Sub-Divisional Officer, Malda Sadar, it appears that though it has been recommended by the District President of concerned political party but it has not been endorsed by the General Secretary or the Secretary of the district unit of such political party, thus the petition for disqualification has not been filed following the mandate of provisions of law.

Accordingly, the writ petition is disposed of granting liberty to the petitioner to file petition before the Prescribed Authority in accordance with the provision of law as indicated above. In the event such petition is filed by the petitioner, the Prescribed Authority and Sub-Divisional Officer, Malda Sadar, respondent no.4 would act and shall proceed in accordance with law within stipulated period as provided under Section 213A of the West Bengal Panchayat Act, 1973.

With the aforesaid directions, the writ petition being **WPA 19783 of 2024** stands disposed of.

All connected applications, if any, stand disposed of.

There will be, however, no order as to costs.

Interim order, if any, stands vacated.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Bivas Pattanayak, J.)