

25.04.2025
Sl. No.83.
D/L.
Mithun
Ct.No.39.

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

WPA 23242 of 2024

**Rustam Mandal
Vs.
The State of West Bengal & Ors.**

Mr. Biplab Guha,
Mr. Bikas Mondal

..for the petitioner

Mr. Swarvanu Saha

...for respondent no.5.

Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Prasanta Behari Mahata

...for the State.

This writ petition has been filed for setting aside of the order dated 18th June, 2024 passed by respondent no.5, Pradhan, Swarupganj Gram Panchayat and for consideration and disposal of the representation of the petitioner made on 29th July, 2024 (Annexure-P/14) for renewal of his engagement as Tax Collector.

The petitioner contends that he was engaged by Swarupganj Gram Panchayat on 28th March, 2018 in the post of Tax Collector for a tenure of 2 years from 28th March, 2018 to 27th March, 2020. On two occasions, his engagement was extended till 2022 and thereafter till 2024. The petitioner requested the Pradhan of local Gram Panchayat for further renewal of his tenure vide letter dated 22nd December, 2023. However, since no steps were taken, the petitioner filed a writ petition

before this Court being WPA 16794 of 2024. Pursuant to order passed in the aforesaid writ petition on 5th July, 2024 granting liberty to the petitioner to file application, the petitioner once again filed an application before the concerned Gram Panchayat for renewal of his engagement on 29th July, 2024. However, such application was not considered by the Pradhan of local Gram Panchayat. Hence, this writ petition.

Learned Advocate for the petitioner submits that though no right has accrued in favour of the petitioner for renewal but in terms of the order passed in the earlier writ petition, the Pradhan of the local Gram Panchayat ought to have considered the prayer of the petitioner for renewal. However, without considering the same, one person aged about 72 years have been engaged as a Tax Collector. The application of the petitioner for renewal has been kept pending citing the pendency of the present writ petition. He seeks for appropriate direction upon the Pradhan, Swarupganj Gram Panchayat to consider the application of the petitioner for renewal dated 29th July, 2024.

Learned Advocate representing respondent no.5, Pradhan, Swarupganj Gram Panchayat submits that by the order passed in the earlier writ petition discretion was given to the Pradhan, Swarupganj Gram Panchayat to consider or not to consider the application for renewal of the petitioner. Therefore, there is no illegality as such done by the Pradhan. He further indicates that as per

the notification of the concerned Gram Panchayat dated 13th February, 2018, the entire discretion as to whether a particular person is to be appointed in the post of Tax Collector lies with the Pradhan. Moreover, in view of above notification, the Pradhan has the sole authority to cancel such appointment or cancel the entire appointment process. The petitioner cannot claim renewal as a matter of right. He further submits that similar prayers were made in the earlier writ petition and the Hon'ble Court while dismissing the writ petition has observed that the petitioner cannot compel the Pradhan to execute a fresh contract. However, if this Court directs, the Pradhan will consider the application of the petitioner in accordance with law.

Mr. Lalit Mohan Mahata, learned Advocate appearing for the State submits that the engagement of a Tax Collector is made by the Pradhan of a Gram Panchayat as per Section 35A of the West Bengal Panchayat Act. Referring to Rule 31 of the West Bengal Panchayat (Gram Panchayat Accounts, Audit and Budget) Rules, 2007, he submits that a Tax Collector cannot claim renewal or extension of its contract as a matter of right. However, while refusing renewal or extension of the contract, the Gram Panchayat shall inform the incumbent in writing before termination of his contract. He also indicates that as per Clause 5 of Rule 31, if the incumbent is not satisfied with the decision of Gram Panchayat under Sub-rule 4, he may

prefer an appeal before the Block Development Officer. Therefore, the Gram Panchayat is to consider the application for renewal of the petitioner.

This is second round of litigation.

Earlier the petitioner filed a writ petition being No.16794 of 2024 which was dismissed with the following direction:-

*“However, the petitioner shall be at liberty to submit a fresh application for renewal and/or execution of a fresh contract before the Prodhan and if any such application is submitted, the Prodhan may consider it at its **discretion** but the condition precedent for submission of such application, the petitioner shall made over all records and documents to the Panchayat to the satisfaction of the Prodhan. This order shall not create any right or equity in favour of the petitioner, if the petitioner submits any further application.”*

Pursuant to such order, the petitioner filed an application for renewal of his engagement on 29th July, 2024. The said application has not been considered as yet. While dismissing the earlier writ petition, the Hon’ble Co-ordinate Bench has also observed that whether to execute a fresh contract in the facts of the case is the discretion lies with the Panchayat and the petitioner cannot compel the Panchayat to execute a further contract. Be that as it may, the Pradhan was also directed to consider the application of the petitioner at its discretion. It is relevant to note that submission of application for renewal by the petitioner was subjected to condition that the petitioner shall make over all records and documents to the Panchayat to the satisfaction of the Pradhan. It is informed by the learned advocate for the respective parties that all records and

documents have been made over to the Panchayat upon satisfaction of the Pradhan.

Bearing in mind the previous order passed by the Co-ordinate Bench of this Court in earlier writ petition, the Pradhan, Swarupganj Gram Panchayat, respondent no.5 is directed to consider the application of the petitioner for renewal dated 29th July, 2024 at its discretion within a period of six weeks from date of communication of this order.

Learned Advocate for the petitioner is directed to communicate this order along with a copy of the application dated 29th July, 2024 to the respondent no.5, Pradhan, Swarupganj Gram Panchayat.

With the aforesaid directions, the writ petition being **WPA 23242 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.)