

08.04.2025
Court No.13
Item No.23
AP

**MAT 2337 of 2023
With
CAN 1 of 2023**

**Santana Mondal
Vs.
The State of West Bengal & Ors.**

Mr. Mrityunjoy Chatterjee
Mr. Debapriya Majumder

... For the Appellant.

Mr. Wasim Ahmed
Mr. Sk. Md. Masud

... For the State.

Mr. Sahasrangshu Bhattacharjee
Mr. Amal Kumar Datta

... For the Union of India.

Mr. Manas Das
Mr. Akash Sarkar

... For the Respondent Nos. 12 to 27.

1. The subject matter of the instant appeal is an order dated 5th October, 2023 passed by a Single Bench of this Court dismissing the WPA 19945 of 2023 (Santana Mondal & Ors. Vs. The State of West Bengal & Ors.). The writ petition was filed challenging an election to the post of Pradhan of Sagarpara Gram Panchayat held on 10th August, 2023.

2. The undisputed facts on record are that on the given day, fixed by the Block Development Officer (BDO) for conducting the election for the post of Pradhan, a Returning Officer nominated by the BDO was sent to the Sagarpara Gram Panchayat Office. All elected members of the Gram Panchayat were present. The election was

conducted. The result was declared. The winning and losing candidates were notified.

3. However, immediately thereafter at about 2 pm, several hooligans entered into the office of the Gram Panchayat and severely assaulted the Returning Officer, broke the video camera that recorded the election, tore up all resolution books and the ballot papers. There was absolutely no evidence of the election in terms of Rule 3(10) of the West Bengal Panchayat (Constitution) Rules, 1975.

4. Immediately after the incident, 17 members of one political party lodged a complaint with the Sagarpara Police Station and FIR No.238 of 2023 dated 10th August, 2023 was registered. The Returning Officer was rescued by a team sent by the Block Development Officer and was treated at the Sagarpara Hospital.

5. The respondent No.10, Block Development Officer, Jalangi Development Block and the respondent No.6, Officer-in-Charge, Sagarpara Police Station have filed affidavits clearly affirming the aforesaid facts.

6. Mr. Mrityunjoy Chatterjee, learned counsel for the appellant would argue that firstly his clients were 17 in number and were holding the majority in the Gram Panchayat. They had nominated a person, who ought to have been clearly elected by reason of majority. Despite

this another member was declared as elected by the Returning Officer. It is those very 17 members, who had reported the incidents post alleged election on 10th August, 2023 before the Sagarpara Police in a formal complaint.

7. Mr. Chatterjee argues that Rule 3(10) of the aforesaid Act of 1975 (supra) mandates preservation of resolution book duly signed by all members present and voting, the ballot papers, the result sheets and all forms for a period of six months. The person, who has been declared as elected was not a candidate proposed by the majority 17 members. There is no way,, before any authority i.e. Block Development Officer or this Court, to verify the sanctity and propriety of the election or the result declared by the Returning Officer. Such election is illegal and void. Reference in this regard is made to the decision of the Supreme Court in the case of **Kuldeep Kumar Vs. U.T. Chandigarh and Ors.** reported in **2024 INSC 129**.

8. The aforesaid facts remaining undisputed, the election of the Pradhan of the Sagarpara Gram Panchayat is, therefore, seriously questionable. This Court nor the office of the DM or BDO has any evidence to find that a valid and lawful election for the post of Pradhan was held at the said panchayat.

9. Counsel for the State has argued that the dispute raised by the appellant falls under Section 79 of the West Bengal Panchayat Elections Act, 2003. This Court notes on plain reading of Section 79 of the aforesaid Act that the aforesaid act covers disputes between two candidates in an election and that too on the grounds specified under Sub-Section 1 of Section 93 and 94 of the Act of 2003. The election of a Pradhan under the West Bengal Panchayat Act is outside the scope of Section 79 of the Act of 2003.

10. In those circumstances, this Court is of the clear view that the Single Bench committed an error and the impugned order is liable to be set aside.

11. Let a fresh election be conducted to the post of Pradhan of the Sagarpara Gram Panchayat by the Block Development Officer, Jalangi Development Block within a period of one month from the date of communication of a copy of this order.

12. The election shall be held under strict security to be provided by the respondent No.5, the Superintendent of Police, Murshidabad.

13. The Block Development Officer, Jalangi Development Block shall himself act as a returning officer and shall not nominate any person for the aforesaid purpose.

14. The District Magistrate, Murshidabad and Superintendent of Police, Murshidabad shall ensure appropriate and proper videography, preservation of forms, ballot papers and all resolution duly signed by all the members present in voting.

15. With the aforesaid direction MAT 2337 of 2023 is disposed of.

16. In view of the disposal of the main appeal, connected pending applications, if any, is also disposed of.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)