

07.01.2025
Court No.23
DL – 3
(Milan)

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

WPA 30641 of 2024

**Ujjwal Sekh & Ors.
versus
The State of West Bengal & Ors.**

Mr. B.N. Ray,
Ms. Shetparna Ray,
Mr. Chowdhury Faruk Ali
.... for the Petitioners

Mr. Lalit Mohan Mahata,
Mr. Soumen Chatterjee
....for the State

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

The petitioner nos.1 and 2 were elected as members of Siksha-O-Janasthaya Upa-Samiti, the petitioner nos.3, 4 and 5 were elected as members of Krishi-O-Prani Sampad Bikash Upa-Samiti and the petitioner no.6 was elected as member of Shilpa-O-Parikatham Upa-Samiti of Bharatpur Gram Panchayat in the district of Murshidabad.

A requisition was made by 1/3 of the Gram Panchayat for removal of the petitioners from the respective Upa Samities as stated hereinabove expressing no confidence in them. This requisition is dated 10th December, 2024 and, has been delivered to the Block Development Officer (in short, “BDO”) being the concerned BDO who in turn on being satisfied,

issued a notice on 17th December, 2024 for holding a meeting to consider the removal of the petitioners on 26th December, 2024 at 2:00 PM at the said Gram Panchayat Meeting Hall of Bharatpur Gram Panchayat. This notice dated 17th December, 2024, has been duly received by the petitioners on 18th December, 2024.

There is no complaint from the side of the petitioners regarding the statutory compliance of the service of the notice. The petitioners say that the requisition has been signed by two persons, who are not members of the said Bharatpur Gram Panchayat and one of the named persons in the requisition did not sign. The petitioners say that the requisition signed by two non-members and the signature of one of the persons named therein being absent, is an invalid requisition in terms of the provisions of Section 22(4) (b) of the West Bengal Panchayat (Constitution) Rules, 1975 (hereinafter referred to as, "1975 Rules"). The petitioners also say that the meeting has been called in a hot haste by the concerned BDO at the instigation of some of the members of the said Gram Panchayat as a counter blast to a writ petition filed by the petitioners alleging corruption in the concerned Gram Panchayat. The petitioners say that since the requisition is invalid and the action of the BDO is triggered by the instigation of some of the members, there is no valid ground for calling and/or holding a meeting on 26th December,

2024 in terms of the notice dated 17th December, 2024. The meeting should be declared a void one and any resolution taken or passed in the said meeting should be declared null and void apart from being convened in terms of an invalid requisition.

On behalf of the State, it is submitted that assuming without admitting that two signatories were not members of the concerned Gram Panchayat and one of members named therein has not signed, then also the requisition has been signed by 1/3 of the total members of the said Gram Panchayat and as such it conforms to the statutory requirement under Section 22(4) (b) of the 1975 Rules.

It is also submitted by the State that in view of the provisions of Section 22(4) (c) of the 1975 Rules, the BDO was required to give a notice within five working days from the date of receipt of the requisition. The concerned BDO has followed such procedure.

The notice was issued on 17th December, 2024 and had been admittedly received by the petitioners on 18th December, 2024. There is as such seven clear days from the time between the receipt of the notice and the date on which the meeting was scheduled to be held. This is also inconformity with the provisions of Section 22(4) (c) of the 1975 Rules.

The requisition, according to the State, is a valid requisition and the meeting has been scheduled by

complying with the statutory requirements. The meeting has taken place and resolutions have been passed therein. However, since the writ petition was pending, the resolutions have not been published and/or given effect.

After hearing the parties and considering the materials on record, I find that the provisions of Section 22(4) (b) of the 1975 Rules only prescribed a requisition to be given by 1/3 members of the concerned Gram Panchayat. In the instant case, 1/3 members of the said Gram Panchayat have admittedly signed the requisition. The presence of two non-members and absence of signature of one of the persons named therein, is taken into account as contended by the petitioners then also, the requisition cannot be flawed on a plain reading of the statutory provisions. The provisions only say the requisition has to be signed by 1/3 members. It does not provide any specific bar for a non-member signing the requisition. So long as the statutory requirements are fulfilled, the signature of any non-member or absence of signature of a person named therein, will be a technical irregularity at the highest and not an illegality *per se* to hold that the requisition is invalid.

I, therefor, do not find any mark of invalidity in the requisition. The statutory provisions also say that the concerned BDO on being satisfied , after receiving

the requisition, shall issue a notice for convening a meeting of the Gram Panchayat within five working days. The gap between the date of receipt of the notice and the date of holding of the meeting should be clear 7 days.

In the instant case, I find that the statutory requirement has been complied with. Moreover, the satisfaction of the BDO in absence of any patent illegality in the requisition or non-compliance of any statutory provisions cannot be questioned. The Court cannot be invited to probe into the satisfaction of the BDO as mentioned in Section 22(4) (c) of the 1975 Rules. The notice has also been moved under Rule 22(4) (c) of the 1975 Rules.

In the aforesaid facts and circumstances, I find no merit in the contention of the petitioners. The writ petition is accordingly dismissed.

The BDO shall be free to act in accordance with law with regard to the decisions taken and/or resolutions passed in the meeting held on 26th December, 2024.

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

(Arindam Mukherjee, J.)