

19.01.2026
Item no.668
Ct. No.15
Suman

WPA 12727 of 2025

Mojammel Molla
-vs-
The State of West Bengal and Ors.

Mr. Alokesh Dalai
Ms. Sawant Chanda
Ms. Rima Mondal
..for the petitioner

Mr. Pantu Deb Roy, AGP
Mr. Pannalal Bandopadhyay
..for the State

Md. Salahuddin
Md. Raziuddin
..for respondent nos. 10 to 23, 25 to
29, 38 and 39.

This writ petition has been filed by a member of the Bikrampur Gram Panchayat, seeking to set aside Tender Notice No. II/BDO/NAK/2025/2026, issued vide Memo No. 2562/NAKA/2025/2026, Serial No. 19, dated 02.06.2025, by the Block Development Officer, Nakashipara.

It was contended on behalf of the petitioner that, in terms of Rule 17(5) of the West Bengal Panchayat (Accounts, Audit and Budget) Rules, 2007, a notice inviting e-tender for works valued between ₹1,00,000/- and ₹5,00,000/- is required to be issued by the Artha O Parikalpana Upa-Samiti. In the present case, however, the tender was issued by the Block Development Officer, Nakashipara, despite the work falling within the aforesaid value bracket. On this ground, it was urged that the tender notice is liable to be set aside.

On behalf of the State, it was submitted that the members of the Gram Panchayat were not *ad idem* with regard to the issuance of the tender and that any delay would have adversely affected the progress of the developmental work. It was further submitted that a meeting of the Panchayat members was held on May 30, 2025 in the presence of the Block Development Officer, during which a decision was taken to float the relevant tenders. The petitioner, however, disputed the holding of such a meeting and contended that the decision was taken unilaterally by the Block Development Officer without any resolution of the Gram Panchayat.

In view of this dispute, this Court, by an order dated November 13, 2025, directed respondent no. 10 to produce the original records pertaining to the meeting allegedly held on May 30, 2025. Subsequently, by an order dated December 9, 2025, the State was again directed to produce the original records of the said meeting.

The State, however, was unable to produce any written resolution signed by the members of the Gram Panchayat. Instead, a pen drive containing five video recordings of the meeting was produced. On December 19, 2025, the said video recordings were played in open Court in the presence of all parties.

From a perusal of the video recordings, it is evident that a meeting was indeed held, though the resolutions adopted therein were not signed by the members present. Upon careful consideration of the video footage, this Court is of the view that the resolutions for issuance of the tenders

were, in fact, adopted by the members of the Gram Panchayat. The resolutions were subsequently reduced to writing by the Block Development Officer, Nakashipara. Notably, the petitioner, who was present at the meeting, did not raise any objection at the relevant time.

In view of the above, the petitioner's contention that no meeting was held on May 30, 2025, is devoid of merit. The absence of signatures on the written resolutions does not, by itself, invalidate the decision, particularly when it appears before this Court that the members of the Panchayat, in fact, resolved to float the tenders. The resolutions were duly reduced to writing by the Block Development Officer on May 30, 2025, and the contents thereof are not disputed by any of the parties before this Court.

In the aforesaid circumstances, it is not strictly necessary to examine the locus standi of the petitioner. However, for the sake of academic completeness, this Court notes that the petitioner, being merely a member of the Gram Panchayat, does not possess the locus to maintain a writ petition challenging a decision of the Panchayat in the absence of exceptional circumstances.

A shareholder of a company does not ordinarily have the right to institute a suit against the company, as the person aggrieved in such cases is the company itself and not the individual shareholder. The celebrated decision rendered in ***Foss v. Harbottle* [67 ER 189]**, the Court laid down the principle that an individual shareholder is generally not entitled to bring an action in respect of a wrong allegedly done to the company; such an action must

be instituted by the company itself. The said rule, however, is subject to certain well-recognised exceptions.

A shareholder may approach a court or tribunal where the impugned action is illegal or ultra vires the Companies Act, the Articles of Association, or any other applicable law. He may also seek such intervention where the action is oppressive or prejudicial to the interests of minority shareholders or to the company. Recourse may further be taken where the action is fraudulent, mala fide, or undertaken in bad faith, including instances involving diversion of funds or personal gain by directors. A court or tribunal may likewise be approached where there is a violation of the personal rights of a director, such as removal without due process, non-payment of contractually agreed remuneration, or denial of access to statutory records. Where there is a breach of fiduciary duties by other directors, a derivative action may be maintainable at the instance of the shareholder.

The principle laid down in ***Foss v. Harbottle*** does not strictly apply to a Gram Panchayat. A Gram Panchayat is not a company; it is a statutory local self-government institution constituted under the West Bengal Panchayat Act, 1973, and performs public functions.

Although the rule in ***Foss v. Harbottle*** is not directly applicable, its underlying principle may, in appropriate cases, be applied by analogy, subject to statutory provisions. Courts may therefore entertain a writ petition at the instance of a Panchayat member where there is a violation of the Panchayat Act or Rules, fraud,

mala fides, misappropriation of funds, or breach of the principles of natural justice.

In the present case, as already noted, the petitioner was present at the meeting and accepted the decisions taken therein without raising any protest. Consequently, in my considered view, the petitioner cannot maintain the present writ petition to challenge the decisions of the Gram Panchayat.

Accordingly, **WPA 12727 of 2025** is dismissed and the interim order stands vacated.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)