

Rasul Mohammad and ors. Vs. State of West Bengal and ors.

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Court : Kolkata

Decided On : Jul-01-2005

Reported in : 2005(4)CHN159

Judge : Jyotirmay Bhattacharya, J.

Acts : West Bengal Panchayat Act, 1973 - Section 16

Appeal No. : W.P. No. 11430(W) of 2005

Appellant : Rasul Mohammad and ors.

Respondent : State of West Bengal and ors.

Advocate for Def. : Arabinda Ghosh, ;Kalyan Ghosh and ;Ashim Kumar Chakraborty, Advs. and ;Bharati Mutsuddi and ;Rina Banerjee, Advs.

Advocate for Pet/Ap. : Amal Baran Chatterjee and ;Usof Ali Dewan, Advs.

Disposition : Petition allowed

Judgement :

Jyotirmay Bhattacharya, J.

1. The Pradhan of No. 2 Mayagram Panchayat along with other seven members of the said Gram Panchayat has filed this writ petition, challenging the notice issued by the requisitionists by which the Pradhan of the said Gram Panchayat was

requested to convene a meeting within 16th May, 2005 for transacting the business on the agenda regarding removal of the Pradhan.

2. Since in spite of service of the said notice, the Pradhan did not convene any meeting for the said purpose, the requisitionists themselves convened a meeting for the said purpose appointing the date on 26.5.2005 for holding such meeting.

3. After coming to know of the said requisition meeting, the petitioners filed a complaint, before the prescribed authority complaining that no notice of the said requisition meeting was served upon the petitioners, but the prescribed authority has not taken any decision on the said complaint of the petitioners.

4. Under such circumstances, the petitioners have filed this writ petition not only challenging the validity of the meeting which was held pursuant to the requisition made by the requisitionists vide Annexure 'P-2' to this writ petition but also challenged the legality and validity of the initial request by which the Pradhan was requested by the requisitionists to convene such meeting vide Annexure 'P-1' to this writ petition.

5. It appears from Annexure 'P-1' to this writ petition that the initial request which was made by the requisitionists for convening the said meeting was received by the Pradhan on 3.5.2005.

6. It further appears from the said notice that the Pradhan was requested to convene a meeting for the said purpose within 16.5.2005 which is contrary to the scheme as contained in Section 16 of the West Bengal Panchayat Act, 1973 which provides that in the event such a request is made by the requisitionists, the Pradhan is required to convene a meeting within 15 days from the date of receipt of such request failing which the requisitionists themselves can call a meeting for the said purpose.

7. Since by the initial request fifteen days' time was not given to the Pradhan for convening the meeting, in my view, Annexure 'P-1' by which requisitionists made such a request to the Pradhan for convening the meeting for the purpose an aforesaid, is illegal as the same is contrary to the provisions of Section 16 of the

said Act. As such, the said notice cannot be sustained in law.

8. The said notice thus stands set aside.

9. In view of the quashing of the said notice, all subsequent steps which were taken by the members of the said Panchayat pursuant to the said notice leading to the removal of the Pradhan on the basis of such illegal notice also stand quashed.

10. The writ petition thus stands allowed.

11. Urgent xerox certified copy of this order, if applied for, be given to the parties as expeditiously as possible.

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