

S/L 7
31.08.2021
Court. No. 19
sn

WPA 13311 of 2021

Abu Taleb Gazi & Ors.
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Mohinoor Rahaman
Mr. Shahan Shah
Ms. Maria Rahaman

...for the Petitioners

Mr. L.M. Mahata
Mr. P.B. Mahata

..for the State

Despite service, none appears on behalf of the respondents Nos. 5 to 24. Let affidavit of service be taken on record.

The writ petition has been filed by some of the members of sthayee Samiti of Hasnabad Panchayat Samiti alleging that the meeting called by the prescribed authority and the Sub Divisional Officer, Basirhat dated August 20, 2021 for their removal, is not in accordance with law and ought to be set aside and quashed.

The contention is that the notice was not issued in terms of Rule 17(6)(c) & (d) of the West Bengal Panchayat (Constitutional) Rules, 1975. It is submitted that the notice was issued beyond five working days from receipt of motion and the meeting has been fixed beyond 15 working days

from the receipt of the requisition. It is further stated that the provisions for calling a meeting not later than 15 working days is mandatory and as such the meeting scheduled to be held on September 1, 2021 is beyond the period prescribed under the statute and thus not permissible in law.

Mr. Mahata, learned Senior Advocate appearing on behalf of the state respondents submit that the provisions of Rules 17(6)(d) is a mandatory provision. This Court had already held that the expression 'not later than 15 days from the date of receipt of motion' is a mandate of law and the said provision cannot be treated as directory.

Under such circumstances, the motion as also the notice issued by the prescribed authority dated August 20, 2021 are set aside and cancelled.

The members, who have brought the motion, are not before this Court. In view of the urgency involved, as the prescribed authority had fixed the meeting on September 1, 2021 service via whatsapp is accepted. The entire writ petition as a pdf file has been sent to the members, who had brought the motion. The members, who had brought the motion shall be at liberty to proceed in accordance with law as they have a legal right under the Rules. They have the liberty to bring a fresh motion in accordance with law and

the prescribed authority shall reach the same to its logical conclusion by adhering to the provisions of the statute and the time limit prescribed.

The writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

All parties are directed to act on the learned advocate's communication.

(Shampa Sarkar, J.)