

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction Appellate Side

W.P.A. 24024 of 2022 Date: 07/11/2022

Sudip Karmakar

-versus

The State of West Bengal & Ors.

Mr. Kishore Dutta, Ld. Sr. Adv, Mr. Suman Sengupta, Mr. Ankit Agarwal, Mr. Dip Jyoti Chakraborty..... For the Petitioner.

Ms. Nandini Mitra, Mr. Sanjay Saha, Mr. Koustav Bagchi, Mr. Debayan Ghosh,
Ms. Priti Kar, For the Respondent Nos. 6 to 11 and 14.

Mr. Anirban Ray, Ld. G.P., Mr. Raja Saha, Mr. Debraj Shaw..... For the State.

The notice of Special Meeting dated 4th November, 2022 signed by three Councillors of Jhalda Municipality is impugned in the present writ petition.

The said notice has been issued in terms of Rule 9 (3) (b) (ii) of the West Bengal Municipalities (Procedure & Conduct of Business) Rules, 1995 to consider the requisition for removal of the Chairman of Jhalda Municipality.

A requisition notice was signed by six Councillors of the Jhalda Municipality and submitted before the Chairman on 13th October, 2022 for removal of the Chairman of the Municipality in accordance with Section 18 (3) of the West Bengal Municipality Act, 1993.

As the Chairman allegedly failed to take prompt steps in response to the aforesaid requisition, further request for convening a special meeting for removal of the Chairman of the Municipality was submitted before the Vice-Chairman on 28th October, 2022.

The Chairman of Jhalda Municipality prepared a notice on 28th October, 2022 to intimate the members that a special meeting has been proposed to be held on 21st November, 2022 but the said notice was, however, not communicated to the parties.

The Vice-Chairman of Jhalda Municipality by a notice dated 3rd November, 2022 informed the members that the special meeting is proposed to be held on 21st November, 2022 for removal of the Chairman of the Municipality pursuant to the requisition served on 13th October, 2022 and second requisition notice dated 28th October, 2022.

The impugned notice of special meeting dated 4th November, 2022 was signed by three Councillors of the Municipality on the understanding that the Chairman as well as the Vice-Chairman failed to act in accordance with the provisions of Rule 9 (3) (b) (i) and (ii).

The three Councillors sought to invoke the provision of Rule 9 (3) (b) (iii) as the Chairman and Vice Chairman allegedly defaulted to convene the special meeting within the prescribed time period.

Rule 9 (3) (b) (iii) lays down that a special meeting may be convened after giving not less than three days ' notice to the members by any three of the Councillors of the Municipality within further seven days after the prescribed time period to convene the special meeting either by the Chairman or the Vice-Chairman.

It appears that on receipt of the requisition notice 13th October, 2022, the Chairman prepared the notice of special meeting to be held on 21st November, 2022 but failed to communicate the same to the members. On 28th October, 2022 the members requested the Vice-Chairman to convene the special meeting for removal of the Chairman. The Vice Chairman acted in accordance with the notice of requisition and fixed the meeting on 21st November, 2022.

However, for reasons best known, the three requisitionist Councillors signed the impugned notice of special meeting on 4th November, 2022 inadvertently mentioning invocation of Rule 9 (3) (b) (ii) of the 1995 Rules.

The impugned notice is ex facie bad because the proper provision has not been invoked for convening the special meeting by three members of the Municipality. The three Councillors do not have the power to invoke the provision as mentioned in the impugned notice.

The special meeting is already proposed to be held on 21st November, 2022. Let the same be held on the scheduled date.

The impugned notice dated 4th November, 2022, is accordingly, set aside and quashed.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)