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25.09.2020.  
Ct. No. 11.  
F.B./G.S. Das

**WPA 273 of 2019**  
with  
**CAN 3 of 2020**  
-And-  
**CAN 4 of 2020**

**(VIA VIDEO CONFERENCE)**

**Noman Rai & Ors.**  
-Vs.-  
**State of West Bengal & Ors.**

**Mr. Anand Bhandari**  
**Mr. Urgen Lama**  
... For the Petitioners.

**Mr. Sirsanya Bandyopadhyay**  
... For the State.  
**Mr. Soumya Majumder**  
**Mr. Moyukh Mukherjee**  
... for the Added Applicant

Party/Parties is/are represented in the order of their name/names as printed above in the cause title.

Mr. Majumdar, Learned Counsel, appears in support of CAN 3/2020, which is an application for Addition of Parties to the writ petition.

The basic stand taken by Mr. Majumdar is that the application, being CAN 3 of 2020, supports the case of the writ petitioners. The joint case made out in the writ petition as well as by the Added Applicants is that the State-respondents acted arbitrarily in replacing the Board of Councillors (BOC) of Darjeeling Municipality by invoking Section 431(1) and 431(2) of the West Bengal Municipal Act, 1993 (for short, the 1993 Act) without complying with the provisions of Section 431(1) and 431(2) (supra).

Both Mr. Bhandari, Learned Counsel appearing for the writ petitioners and Mr. Majumdar, Learned Counsel for the Added Applicants, point out that the compliance of Sections 431(1) and 431(2) is mandatory and, without such compliance the BOC could not have been replaced by a sole Administrator.

Mr. Bandopadhyay, Learned Junior Standing Counsel representing the State-respondents submits that the reasons in favour

of the State-respondents stands recorded in the Affidavit-in-opposition filed to the writ petition. It is asserted that once the Affidavit-in-opposition is presented before this Court, the State shall be in a position to demonstrate its compliance of Sections 431(1) and 431(2) (supra) of the 1993 Act.

Having considered the rival submissions, this Court is of the view that this matter requires a speedy consideration. This Court is of the further view that the scope of consideration is limited to establishing or, otherwise failing to do so, the faithful compliance by the State-respondents of the requirements of Sections 431(1) and 431(2).

It therefore follows that in the event such compliance is not established, the Administrator will have to yield his position to the duly elected BOC which has a tenure of five years expiring in 2022.

The Added Applicants represented by Mr. Majumder undertake to file Paper Book(s)

containing the documents essential to the ultimate hearing.

The Added Applicants shall supply a copy of CAN 3 of 2020 to Mr. Bandyopadhyay, Learned State Counsel, who shall, in turn, be entitled to respond to such application by filing a Counter Affidavit.

Let the cumulative exercise of completing Paper Book(s) inclusive of the Counter Affidavit to CAN 3 of 2020 along with its Affidavit-in-Reply, if and as advised to be filed by the Added Applicants, be completed within an outer time limit of three weeks from this date.

Let the matter next appear at the end of three weeks, i.e. on **19<sup>th</sup> October, 2020**, before the appropriate Bench, subject to its convenience, under the heading "**For Orders**".

All parties to act in terms of a server copy of this order downloaded from the official website of this Court.

**(Subrata Talukdar, J.)**