

**Constitutional Writ
In The High Court at Calcutta
Present : The Hon'ble Mr Justice Jayanta Kumar Biswas**

Judgment on : May 5, 2010

**W.P.No.6733 (W) of 2010
Alok Kumar Poria
-vs-
The State of West Bengal & Ors.**

Points:

NOTICE: Election notice was issued for reconstitution of Managing Committee by the librarian- In the notice it was stated one may contact librarian/secretary for obtaining necessary information- There was no secretary in the library-Whether notice is bad-Managing Committee, if not constituted, whether gets recognition by implication- Constitution of India, Art 226.

Facts:

Election notice has been questioned on the grounds that although there is no managing committee, the notice has been issued stating that election would be held for reconstitution of the managing committee, and that though there is no secretary in the library, in the notice it has been stated that one would be free to contact the librarian/secretary for obtaining necessary information.

Held:

It is of no consequence that the notice has been issued for reconstitution of the managing committee. If no managing committee was ever constituted, then, simply because in the notice it has been stated that election would be held for reconstitution of the managing committee, a previous managing committee will not get recognition by implication.

Para-3

Notice was signed only by the librarian of the library. According to the prescribed form appended to the election procedure, the notice is to be issued under the signature of the librarian or secretary or administrator or authorised person. Hence simply because it has been mentioned that anyone needing information would be free to contact the librarian/secretary for obtaining it, the notice will not become invalid.

Para 4

Mr. A.K. Poria petitioner (in person)

Mr. Gautam Royfor the state

The Court :

The petitioner in this art.226 petition dated March 31, 2010, appearing in person, submits that the election notice dated March 1, 2010, Annexure P6 at p.44, has been issued in contravention of an order of this court and the mandatory provisions of the election procedure.

2. The election notice has been questioned on two grounds: (i) though there is no managing committee, since the managing committee was never constituted, the notice has been issued stating that election would be held for reconstitution of the managing committee of the library; and (ii) though there is no secretary in the library, in the notice it has been stated that one would be free to contact the librarian/secretary for obtaining necessary information.

3. I do not find any merit in the grounds on which the election notice has been challenged. It is of no consequence that the notice has been issued for reconstitution of the managing committee. If no managing committee was ever constituted, then, simply because in the notice it has been stated that election would be held for reconstitution of the managing committee, a previous managing committee will not get recognition by implication.

4. It is evident from the notice that it was signed only by the librarian of the library. According to the prescribed form appended to the election procedure, the notice is to be issued under the signature of the librarian or secretary or administrator or authorised person. Hence simply because it has been mentioned that anyone needing information would be free to contact the librarian/secretary for obtaining it, the notice will not become invalid.

5. Referring to the division bench order dated September 15, 2009, Annexure P4 at p.38, the petitioner has submitted that it is the District Library Officer, Howrah who is to hold the election, and not the librarian who issued the election notice.

6. In my opinion, the contention is misconceived. The division bench did not direct the District Library Officer, Howrah to hold the election following a procedure other than the one mentioned in the election procedure. Their Lordships specifically directed the District Library Officer, Howrah to see that the election was held in accordance with rules, and the election notice has been issued strictly according to rules.

7. The petitioner has submitted that the official concerned has not been accepting membership list. I am unable to see how this can be a ground to assail the election notice, especially when the election is being held in terms of the order of the division bench.

8. For these reasons, the petition is dismissed. No costs. Certified xerox.

(Jayanta Kumar Biswas, J)

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