

(1980) 11 CAL CK 0010
Calcutta High Court
Case No: F.M.A.T. No. 2919 of 1980

Izazul Haque and
Others

APPELLANT

Vs

State of West Bengal
and Others

RESPONDENT

Date of Decision: Nov. 13, 1980

Acts Referred:

- West Bengal Panchayat Act, 1973 - Section 210, 4, 7

Citation: 85 CWN 202

Hon'ble Judges: A.N. Sen, C.J; M.M. Dutt, J

Bench: Division Bench

Advocate: Taraknath Banerjee and Asit Kumar Sengupta, for the Appellant; B.S. Bagchi and Kamallesh Banerjee, for the Respondent

Final Decision: Dismissed

Judgement

A.N. Sen, C.J.

By consent of the parties, the appeal is treated as on the day's list and as agreed to by the parties we propose to dispose of both the appeal and the application for interim order. The only point urged in this appeal arising out of the judgment and order passed by B. C. Ray, J. on the 23rd of, September, 1980, is whether nominated members of a Gram Panchayat are members of the said Panchayat and whether they enjoy the right to participate in any voting in any meeting of the members of the Gram Panchayat. B. C. Ray, J, for reason stated in his judgment, has come to the conclusion that the nominated members of a Gram Panchayat are members of the Gram Panchayat and they enjoyed the right to participate and vote, if any voting is called for, in a meeting of the Gram Panchayat. In this appeal, the correctness of the finding of B. C. Roy, J. has been challenged. The learned Advocate appearing in support of this application has drawn our attention to section 4 of the West Bengal Panchayat Act, 1973. Section 4 provides for the constitution of a Gram Panchayat

and also for the electorate of the Panchayat members of the Gram Panchayat. The said section further provides that every Gram Panchayat shall be a body corporate having perpetual succession and a common seal and shall, by its corporate name, sue and be sued. Our attention was next drawn to section 7. The said section deals with the term of office of members of Gram Panchayat. It has been urged that no nominated member is considered to be a full member of the Gram Panchayat in the same sense of an elected member of a Gram Panchayat. Next, the nominated members will not be liable to be removed like other elected members of the body corporate. Section 210 of the Act provides for nomination which reads as follows :

The State Government may appoint two members of the Scheduled Castes or Scheduled Tribes and two women to be members of any Gram Panchayat, Panchayat Samiti or Zilla Parishad :

Provided that--

(a) no such appointment shall be made if two or more members of the Scheduled Castes or Scheduled Tribes or two women have been elected to such Gram Panchayat or Panchayat Samiti or Zilla Parishad, as the case may be, under the provisions of this Act ; and

b) one such appointment shall be made if only one member of the Scheduled Castes or Scheduled Tribes or one woman has been elected to such Gram Panchayat or Panchayat Samiti or Zilla Parishad, as the case may be, under the provisions of this Act.

2. It is made clear that the said section empowers the State Government to appoint persons in terms of the said section and the persons so appointed become members of the Gram Panchayat. Our attention has already been drawn to section 7 of the West. Bengal Panchayat (Amendment) Act, 1978 (West Bengal Act X of 1978) by which section 210 of the West Bengal Panchayat. Act, 1973 has been amended, and on a plain reading of the section we are clearly of the opinion that the persons appointed u/s 210 of the Act by the State. Government become members of the Gram Panchayat and are entitle to all the rights and privileges members of a Gram Panchayat enjoy. There is nothing in the Act, as far as it has been suggested, either expressly or by any implication, that the persons so appointed by the State Government will not be entitled to enjoy the rights and privileges which ate enjoyed by the other elected members of the Gram Panchayat.

3. If the persons so appointed by the State Government u/s 210 were not to be allowed to participate in the meeting and to vote, if any voting become necessary, the appointment of such persons by the State Government would really become meaningless. In that view of the matter, we are of opinion that B. C. Ray, J. has rightly come to the conclusion that the persons so appointed by the State Government u/s 210 of the Act are members of the Gram Panchayat and are entitled to participate in the meeting and in any voting, if any voting takes place.

4. We have earlier observed that the only question that was urged in this appeal was the question relating to the rights of the members appointed by the State Government u/s 210 and no other questions as urged in this appeal. We do not, therefore, consider it necessary to decide any other question. For the reasons aforesaid, the appeal is dismissed and necessarily the application is also dismissed. There will be no order as to costs.