

Item No.14
16.09.2026
Court. No. 12
Sandip

MAT 1550 of 2026
With
CAN 1 of 2026

Mithun Biswas
VS
The State of West Bengal & Ors.

*Mr. Mrityunjoy Chatterjee,
Mr. Manas Das,
Mrs. Suchismita Chakraborty*

...for the Appellant.

Mr. Baidurya Ghosal

...for the State.

*Mr. Robiul Islam,
Mr. Jayed Hossain,
Ms. Asmita Mitra*

...for the private Respondent Nos.5 &16.

1. The appeal arises out of an order dated September 10, 2026 passed in W.P.A. 24535 of 2026.
2. By the order impugned, Her Lordship extended the time period to convene the meeting for removal of the Pradhan of Khairamari gram panchayat.
3. The writ petition was moved by the respondent nos. 5 to 16, who were aggrieved by the inaction on the part of the prescribed authority, in holding the meeting for removal of the Pradhan, by making repeated cancellations.
4. It appears from the record that members of the said gram panchayat submitted a no confidence motion seeking removal of the Pradhan of the said panchayat before the prescribed authority on August 11, 2026, which was received by the prescribed authority on the same date.
5. The prescribed authority by a notice dated August 14, 2026, fixed the date of the meeting for removal of Pradhan on August 25, 2026. Subsequently, by a notice dated

August 24, 2026 the meeting was cancelled due to non-availability of police assistance.

6. The appellant has challenged a direction of the learned Single Judge upon the prescribed authority, to convene the meeting and conclude the proceeding in accordance with law, beyond the period of 30 days from receipt of the requisition notice.
7. The issue as to whether a meeting could be postponed on the ground of non-availability of police assistance is no more res integra. We have already held that the said ground was not one of the exceptions provided under Section 12(4) of the West Bengal Panchayat Act, 1973, permitting cancellation of a meeting. We do not find that the Prescribed Authority had recorded any satisfaction that the meeting could not be held peacefully and the law and order situation would go beyond his control, in the event the meeting was held in the absence of the police.
8. In the regard, the decision of ***Tafijul Hoque vs Mobarak Hossain and Ors. decided in MAT 1105 of 2026*** reported in ***2026:CHC-AS:1396-D*** is referred to and the following paragraphs are quoted below:-

“17. Before we proceed further, it is necessary to state the provisions of Section 12 of the Panchayat Act:

“[12. Motion of no confidence or removal of Pradhan or Upa-Pradhan.] ---

(1) Subject to other provisions of this section, the Pradhan or the Upa-Pradhan of a Gram Panchayat may, at any time, be removed from his office by the majority of the existing members of the Gram Panchayat, referred to in clause (i) of sub-section (2A) of section 4, expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their decision to remove the Pradhan or the Upa-

Pradhan, at a meeting specially convened for the purpose.

(2)For the purpose of removal of the Pradhan or the Upa-Pradhan, one-third of the existing members referred to in sub-section (1) subject to a minimum of three members shall sign a motion in writing expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their intention to remove the Pradhan or the Upa-Pradhan, indicating party affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Gram Panchayat office and another copy shall be sent by registered post at his residential address.

(3)The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the Gram Panchayat to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.

(4)The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.

(5)Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum

required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.

(6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

(7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer

(8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions, as the case may be, on the minutes in confirmation of the proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.

(9)(a) The Executive Assistant or in his absence the Secretary of the Gram Panchayat shall, within three working days of the meeting, forward a copy of the minutes of the meeting to the prescribed authority.

(b) The presiding officer shall also submit a separate report in writing along with a copy of the minutes of the meeting within the aforesaid time to the prescribed authority.

(10) On receipt of the minutes of the meeting and the report under sub-section (9), the prescribed authority shall, within next five working days, take such action as he may deem fit and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.

(11) If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

(12) Notwithstanding anything contained in sub-section (1), no meeting for removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of one year from the date of election of the Pradhan or the Upa-Pradhan either at the first meeting following reconstitution of Gram Panchayat or for filling casual vacancy in the said office.]”

18. Section 12[4] of the Panchayat Act has two parts – the first part clearly mandates a mandatory time limit for holding a meeting, which shall not be later than ‘fifteen working days’ from the date of receipt of the motion by the Prescribed Authority. We shall discuss in the succeeding paragraphs, the intention of the legislature in using the expression ‘shall not be later than’, in the first part of Section 12[4] of the Panchayat Act. The latter part of Section 12[4] speaks about two contingencies i.e. the meeting so convened shall not be either adjourned or cancelled except [i] in pursuance of an order or direction of a competent court or [ii] for any other reason beyond the control of the Prescribed Authority.

23. As soon as a notice of motion is issued to remove a Pradhan, the clock starts ticking, inasmuch as, on the one hand the sword of Damocles starts hanging over the Pradhan, who had been elected democratically and would naturally want to complete his term, and on the other hand, the majority members who lost confidence in the Pradhan for whatever reason, sign a motion in terms of Section 12[2] of the Panchayat Act, expressing their lack of

confidence in him and desire to remove him. Therefore, the fate of the Pradhan is to be tested in a meeting which is required to be held upon being convened by the Prescribed Authority. It is needless to mention here that, those members who signed the motion /the requisitionists, having lost confidence in the Pradhan, also started to fervently wait for their desired object of removing the Pradhan, who, according to them, ought to be removed for the better functioning of the gram panchayat, or for any other reason.

25. There is another aspect of the matter. The people (voters) have not been mentioned in these provisions, but their rights are also substantially affected in such circumstances. Those residents, within the territorial jurisdiction of the said Panchayat in respect of which the motion to remove the Pradhan is pending, have a right to have a suitable Pradhan, duly elected under Section 9 of the Panchayat Act by their elected representatives. They have a hope that under the Pradhan's leadership, the Panchayat will work effectively and within the framework of the Panchayat Act, for betterment of the locality. Once the members lose confidence in the Pradhan, he does not have a right to continue in office. All that remains, is a removal in a meeting usually by raising of hands. The gram panchayat suffers in the midst of creation of rival groups. Thus, the motion has to be tested at the earliest, and positively within the statutory period prescribed in this regard.

40. The issue as to whether the provisions of Section 12(4) of the Panchayat Act are mandatory or not is *longer res integra*. A Coordinate Bench of this Court [where one of us was a member] in ***Pradhan, Nurpur Gram Panchayat and Another vs. Gobinda Ghosh and Others*** reported in **2026 SCC OnLine Cal 8718**, had occasioned to deal with an identical issue. It was, *inter alia*, held:

8. "It is the democratic right of the requisitionists to bring a motion of no confidence against the Pradhan, but such right has to be exercised in terms of Section 12(2) of the said Act. The Prescribed Authority thereafter, has to act upon compliance of Sections 12(3) to

12(10). In this case, the Prescribed Authority initially scheduled the meeting on 12-6-2026 and just a day before the meeting, the Prescribed Authority postponed the same for an indefinite period by citing the reasons beyond his control. Along with the said notice of postponement, the e-mail received from the Inspector-in-Charge of the concerned Police Station was attached.

9. In our view, if the Prescribed Authority felt that the situation was beyond his control and he was not in a position to hold the meeting, the specific reasons as to why he was of the view that, without adequate police force the meeting could not be held, and whether he was apprehensive of law and order problems and/or violence, should have been reflected in the notice of postponement. Secondly, there is nothing on record which would show that the Prescribed Authority had serious intention of holding the meeting on any subsequent date. The time limit prescribed under Section 12(4) to hold the meeting of no confidence is 15 working days from the date of receipt of the notice.
10. Admittedly, the notice of motion was received on 2-6-2026 and the meeting was first fixed on 12-6-2026. However, the Prescribed Authority could have decided on the date within the time limit prescribed under Section 12(10), which provides that the entire process of issuing notices, holding the meeting and communicating the result of the meeting to the appropriate authority has to be completed within 30 days from the date of receipt of the notice of motion.
11. We do not find any honest intention of the Prescribed Authority to take such steps within the statutory period. Thus, the writ court could not have extended

the time beyond the period of 30 days. Such direction would amount to rewriting the statute. Extension of the time limit prescribed by law is not within the power of a writ court, in exercise of power of judicial review.

12. Under such circumstances, we are not in agreement with Mr Islam to the extent that the requisition which was brought forth by the requisitionists should be treated as valid and alive. The requisition had lost its force, the moment the time limit prescribed by law had expired.

13. The contention of Mr Bhattacharya that Section 12(11) bars further requisition is not accepted. Section 12(11) comes into operation only when the notice of no confidence brought against the Pradhan, fails on account of lack of quorum or the motion is not carried through.

14. We are also surprised to find that the Prescribed Authority had adopted a method of ignoring the requisition and not holding the meeting, on the ground that adequate police force was not available. The law does not prescribe that such meetings have to be held in the presence of the police authorities. Thus, such a plea of the Prescribed Authority is not in conformity with the expression "reason beyond the control".

15. Unless there are specific instances to demonstrate that non-availability of the police force would result in a chaotic or unsafe situation, the postponement of the meeting deserves to be set aside. Section 12(10) of the said Act provides that the entire process from the receipt of the requisition till the completion of the meeting, should be concluded within 30 days. By the order impugned, the time has been extended by further 10

days from the date of communication of the order of Her Lordship dated 1-7-2026.

16. Mr Islam informs us that the meeting has been scheduled on 15-7-2026. In our view, the notice by which the meeting has been fixed on 15-7-2026 is also set aside.

43. The decision of the learned Single Judge is also not in consonance with Section 12[4] of the Panchayat Act. The learned Single Judge has completely misconstrued the law and failed to appreciate the legislative intent behind the incorporation of the expression that the meeting shall not be held later than 'fifteen working days' from the date of receipt of the motion by the Prescribed Authority.

45. In **Selina Bibi** [supra], the meeting was adjourned due to the restrictions imposed by the State in view of the Covid-19 pandemic situation. This, in our view, certainly amounts to 'reasons beyond control' for which a meeting can be adjourned by the Prescribed Authority.

46. In **Pravati Murmu** [supra], no ratio has been laid down and therefore, the said judgment cannot be treated as a binding precedent. The facts are also not available. We are unable to consider the circumstances under which the court allowed the meeting which was held at an extended date.

48. The Prescribed Authority is the Block Development Officer and he is the administrative head of his Block. It is unfortunate that an administrative head of a Block is unable to perform his statutory duty for lack of police assistance. This cannot be an excuse for not performing statutory duties. The apprehension of the Prescribed Authority of law-and-order problems at the time of the meeting or afterwards, must be based on some materials on record. 'Police assistance' is not a precondition for holding a meeting under Section 12(4). The Prescribed Authority can neither rewrite the statutory provision and nor can he choose not to perform his / her statutory duties on flimsy grounds. If it is found that there is an apprehension of law-and-order problem in the block, an inference may be drawn that the administration of the Block is not running well. The statute also does not provide for police

assistance. Unless, subjective satisfaction of the Prescribed Authority that, the situation at the meeting will lead to violence and he will be unable to hold the meeting in fear of violence, are available from the records, we cannot hold that inability of the police to provide assistance, is a valid ground, available in law, to postpone the meeting.

49. It is also surprising to note that the Officer-in-charge of the concerned police station refused to accede to the request of the Block Development Officer. We express our displeasure and anguish to that effect. The entire action/decision of the police authority as well as the Prescribed Authority / Block Development Officer are highly reprehensible. The intention of the legislature cannot be defeated in the casual manner adopted by the Prescribed Authority.

50. It is to be remembered that, the legislature has empowered the Prescribed Authority to cancel or adjourn the meeting for 'any other reason beyond his control'. That does not mean that the Prescribed Authority can use such power as a device to adjourn or cancel a meeting in every case. Since, the first part of Section 12(4) is mandatory in nature the Prescribed Authority must keep in mind that all endeavours are required to be taken by him to conclude the meeting within the time frame given by the statute. The latter part of Section 12(4) of the Panchayat Act, can be invoked only in exceptional circumstances, such as flood or covid pandemic, other natural calamities, violence or other circumstances of like nature, which are beyond the control of the Prescribed Authority. The Prescribed Authority must substantiate existence of such reasons either in his cancellation or adjournment order or from contemporaneous records, demonstrably disclosing the genuine reason(s) which forced him to postpone the meeting. Moreover, the postponement in this case, was until further orders. i.e. indefinitely, without fixing another convenient date."

9. In view of the above, the requisitionists shall be at liberty to bring another motion in accordance with law and the prescribed authority is directed to comply with the provisions of law, without fail. The requisition and the subsequent actions are set aside. The order impugned is

set aside. The appellant will not evade service of the requisition notice. The same shall be affixed at a conspicuous place in the panchayat office, apart from being served at the office and sent to the residence by post.

10. We make it clear that the meeting to be fixed pursuant to the motion to be brought by the requisitionists should not be postponed on the ground of non-availability of police assistance. The police authorities shall not refuse police assistance, if requested. The Superintendent of Police, shall ensure assistance through the local police station, if required.
11. Accordingly, the appeal and the connected applications are disposed of.
12. The superior authority of the concerned Block Development Officer must deliberate upon the reason behind the action of the prescribed authority in repeatedly postponing meetings and/or cancelling the meetings for removal of the Pradhan. An enquiry as to whether there is any extraneous reason for such action is required to be conducted. The authority should take up the issue seriously, as we have repeatedly passed directions on the Block Development Officers.
13. Service of copies of our orders upon the Secretary, Department of Panchayat and Rural Development, have been effected. The prescribed authorities are ignorant of the law and also appear to have total disregard for the decisions of the Division of this Court. If necessary, decisions to transfer the concerned prescribed authority and other similar officials who have acted contrary to the

statute and the orders from the High Court, should be seriously contemplated.

14. The Secretary of the Department is requested to forward a report in compliance of these direction and observations passed by us, to the office of the Registrar General, High Court at Calcutta.
15. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)