

5th September,
2019

**Calcutta High Court
In the Circuit Bench At Jalpaiguri**

W.P.A. 441 of 2019

(64)
(BD)

Smt. Mina Barman & Ors.
-vs-
State of West Bengal & Ors.

Mr. Sandip Mandal
... for the Petitioners.

Mr. Debabrato Dhar
Ms. Bedashruti Dhar
... for the State.

The petitioners are the elected Panchayat members of Raniganj Panisali Gram Panchayat, under Kharibari Block, District- Darjeeling. It is the case of the petitioners that the Pradhan of the said Gram Panchayat being the respondent No. 2, is a corrupt person who has demanded and been given considerable sums of money from the villagers in exchange of allotment of houses and other privileges.

Counsel submits that the subject matter of challenge in the present proceeding is a communication dated 14th August, 2019 from the Block Development Officer, Kharibari Development Block, Darjeeling, rejecting the proposal of 'No Confidence Motion' of the petitioners against the Pradhan relying on the West Bengal Panchayat (Second Amendment) Act, 2015 dated 9th January, 2015 which substituted section 12(12) of the West Bengal Panchayat Act, 1973.

Learned counsel for the petitioners places several letters of complaints of the villagers which record that amount varying from Rs. 40,000 to 25,000 etc., have

been demanded by the Pradhan at various point of time in June and August 2018. The Pradhan was appointed on 1st August, 2018 and a No Confidence Motion was moved by the petitioners against the Pradhan on 5th August, 2019.

The relevant part of the impugned communication sets out Section 12(12) of the Amendment Act, which is;

“ (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 two and a half years 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.”

Counsel submits that although section 12(12) of the Amendment Act of 2015 provided for a time period for two and a half years for holding a meeting for removal of the Pradhan from the date of election of the Pradhan, an exception may be made in this case by reason of the corrupt activities of the Pradhan. Counsel relies on a decision of the Division Bench of this Court reported in 1997 WBLR (Cal) 275 (Eunas Ali Molla –vs- State of West Bengal) which held inter alia that in case where the Panchayat is affected by the action of the Pradhan, it will be illogical to contend that the members of the Gram Panchayat cannot take any steps for removal of such Pradhan.

Learned Government Pleader defends the decision of the BDO on the ground that the relevant provision of the law as it presently stands has been relied upon and further that no steps can be taken for removal of the

Pradhan before the two and a half years from the date of appointment of the Pradhan made on 1st August, 2018. He also submits that the present proceeding is a result of political rivalry and that one of the petitioners had earlier been served as the Pradhan in the said Gram Panchayat. He proposes that since there are charges of corruption against the Pradhan, such charges may be enquired into by the B.D.O.

Having heard learned counsel for the parties, this Court is of the view that the application of Section 12(12) of the West Bengal Gram Panchayat, (Second Amendment) Act, 2015 cannot be relaxed in the facts of the case since the petitioners have admittedly proposed a No Confidence Motion one year from the appointment of Respondent No.2 as Pradhan.

Only one of the four complaints relied upon by the petitioners, is of February, 2019 while the others are of June, 2018 that is before the respondent No.2, was appointed as Pradhan in the concerned Gram Panchayat. The decision relied on is of 1997 is much prior to the Act as amended in 2015 stipulating a time limit of two and a half years before any step can be taken for the removal of the Pradhan. However, since there are serious allegations of corruption against the respondent No.2, this court deems it fit to direct the Block Development Officer being the respondent No.4 herein, to cause an enquiry into the allegations of corruption or other complaints which may be placed or are already before him during the term of the respondent No.2. The BDO is directed to take appropriate steps for initiating and concluding such enquiry and furnish a report which will be circulated amongst the members of the Gram Panchayat and the villagers of the district of the Panchayat.

For the reasons as stated above, this court is not inclined to interfere with the communication or with the decision of the BDO dated 14th August, 2019.

WPA 441 of 2019 is disposed of in the above direction.

(Moushumi Bhattacharya, J.)