

17.08.2021
Sl. No.12
sn

W.P.A. No. 7329 of 2021

Biren Halder
Vs.
The State of West Bengal & Ors.

Mr. Alokesh Dalai ...for the Petitioner.

Mr. Anirban Ray, Ld.G.P.
Mr. Raja Saha
Ms. Rupsa Chakraborty ...for the State.

Md. Salauddin
Md. A. Zaman
Md. Zafar Siddique ..for respdts.11-14

Ms. Sonal Sinha
Ms. Ankita Dey ..for the respdt,4

Mr. T. M. Siddique
Mr. T.B. Mondal ..for the State

Affidavit of service is taken on record.

The petitioner originally filed the writ petition seeking implementation of the requisition notice, which was brought on February 26, 2021. The prescribed authority had not convened the meeting as per the provisions of law on the ground that in view of the publication of the model code of conduct prior to the legislative election, the meeting could not be held. Even though there was a direction of a co-ordinate Bench of this Court to hold the meeting, the meeting was not convened. The matter appeared before this Court when directions for affidavits were given.

Now, the petitioner prays that as the entire statutory period is over and the requisition has become infructuous as it was brought on February 26, 2021, leave be granted to bring a fresh requisition.

Mr. Salauddin, learned advocate for the respondent nos. 11 to 14 submits that the entire process has now become infructuous due to expiry of statutory period of time and no further requisition can be brought within one year.

Under such circumstances, no further order is required to be passed in this writ petition. This writ petition is disposed of granting liberty to the requisitionists to bring a fresh requisition in terms of Section 12(2) of the West Bengal Panchayat Act, 1973. If such requisition is brought, the prescribed authority shall act in accordance with the provisions of Section 12(3) & 12(4) onwards to reach the meeting to its logical conclusion.

It is also observed that even the Covid regulations have been relaxed and there is no impediment in holding any meeting of such nature if the requisitionists satisfy the prescribed authority about the compliances under Section 12(2) of the said Act, 1973. In this case, the provisions of Section 12(11) shall not be applicable as the requisition was not considered at all by the prescribed authority. It is not a case of

failure of the motion due to lack of quorum or the motion not being carried by the members.

These institutions must run on democratic principles. In democracy all persons heading public bodies can continue provided they enjoy the confidence of the persons who comprise such bodies. This is the essence of democratic republicanism. In my opinion, the provision for removing an elected representative such as the Pradhan or the Upa-Pradhan is of fundamental importance to ensure the democratic functioning of the institution as well as to ensure the transparency and accountability in the functions performed by the elected representatives.

If the Pradhan or his assistance refuse to accept the notice in his office then the requisition shall be pasted in a conspicuous place in the office of the Gram Panchayat or at the resident of the Pradhan, in addition to the service as per the statutory requirement. Police authorities shall render full support, co-operation and protection to the prescribed authority.

The earlier requisition and all subsequent actions are set aside.

This writ petition is disposed of.

There will be, however, no order as to costs.

All parties are to act on the basis of the server copy of this order.

All parties are directed to act learned advocate's communication.

(Shampa Sarkar, J.)