

Item No.2

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

02.07.2021
Ct-24

WPA 10818 of 2021
Nadira Sarkar Begam @ Nadira Begam
v.
The State of West Bengal & Ors.

Mr. Anjan Bhattacharya
Mr. Tapodip Gupta
... for the petitioner.

Mr. Tapan Mukherjee
Mr. Raja Saha
Mr. Rajat Dutta
... for the State.

None appears on behalf of the private respondents.

Affidavit-of-service filed in Court is taken on record.

The petitioner is the Pradhan of 1 No. Kantabari Gram Panchayat. A notice for removal of the Pradhan was submitted in the office of the Prescribed Authority by eight out of its fourteen members on May 11, 2021.

The primary challenge of the petitioner is that even though the notice of motion was submitted in the office of the Prescribed Authority on May 11, 2021, the meeting on motion for removal of Pradhan was issued on

June 21, 2021 fixing the date of the meeting on July 5, 2021.

According to the petitioner the same is impermissible in law. The petitioner relies upon a notice issued by the Prescribed Authority and the Block Development Officer dated May 18, 2021 wherein the meeting for removal of Pradhan stood postponed until further instruction from the competent authority in view of the Covid-19 pandemic situation and in pursuance of the order dated May 15, 2021 issued by the Chief Secretary of the Government of West Bengal.

It has been submitted that the aforesaid Government order dated May 15, 2021 is yet to be withdrawn. The pandemic situation is still continuing and accordingly the meeting ought not to be held at present.

The petitioner also relied upon a notice dated June 14, 2021 issued by the Prescribed Authority and the District Magistrate, Murshidabad wherein the meeting scheduled on 16th June, 2021 for election of Sabhadhipati and Sahakari Sabhadhipati of the Zilla Parishad have been postponed until further orders.

The petitioner placed reliance upon the provision of Section 12(4) of the West Bengal Panchayat Act, 1973 wherein the time line within which the meeting is required to be held upon a notice on motion being

submitted in the office of the Prescribed Authority has been mentioned.

The learned senior advocate representing the Prescribed Authority submits that when the notice of motion was received in the office of the Prescribed Authority, the meeting on motion for removal of Pradhan could not be held in view of the Government Order which prohibited any type of administrative, political, cultural congregation or gathering till June 30, 2021.

In view of the aforesaid pandemic situation the meeting could not be held on time. As presently the Covid situation in the locality has improved to a considerable extent the meeting has been rescheduled on July 5, 2021.

I have heard the submissions made on behalf of both the parties. The provision for removal of Pradhan mentions that the 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 expressing their lack of confidence and recording their decision to remove at a meeting specially convened for the purpose.

On receipt of the motion the Prescribed Authority is to satisfy himself that the same conforms to the requirements of law and on his satisfaction shall specially convene, by issue of notice within five working days from the receipt of the motion a meeting of the

Gram Panchayat. The meeting is to be held on a working day, not later than fifteen days, from the date of receipt of the motion and the meeting convened shall not be adjourned or cancelled except in pursuance of an order or direction by a competent Court or for any other reason beyond control of the Prescribed Authority.

In the instant case majority members of the Gram Panchayat has submitted a notice of motion for removal of the Pradhan. The meeting has been deferred beyond the prescribed period of limitation in view of the Covid pandemic that is prevailing in the State. The pandemic situation was absolutely beyond the control of the Prescribed Authority and accordingly the meeting has been postponed to contain the spread of the pandemic. As the conditions for holding the meeting is favourable at present, the Prescribed Authority has proceeded to fix the meeting on July 5, 2021.

I do not find any illegality in the action of the Prescribed Authority.

The writ petition is devoid of any merit and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for be given to the parties after completion of all legal formalities.

Sh

(Amrita Sinha, J.)