

19.07.2021
Court No. 19
Item no.7
sn

WPA No. 11362 of 2021

JAYASHREE MAJHI VS. THE STATE OF
WEST BENGAL &N ORS.

(via video conference)

Mr. Piyush Chaturbedi
Mr. Lasminath Bhattacharyya
...for the petitioner

Mr. L.M. Mahata
..for the State

Mr. Rabilal Maitra
Mr. Mrinal Kanti Mukherjee
Mr. Subhajyoti Chandra
..for the respondents 7-26

This writ petition has been filed challenging the requisition, and the notice dated May 8, 2021 issued by the prescribed authority and Block Development Officer fixing July 16, 2021 as the date of the meeting for removal of the Pradhan of Gopalgunj Gram Panchayat. Challenges have been made on various grounds. First, that seven days notice between the requisition and the date of the meeting was not given to the Pradhan. The notice calling for a meeting for removal of the Pradhan was issued beyond the prescribed period of thirty days as contemplated under Section 12(10) of the West Bengal Panchayat Act, 1973.

The meeting was stayed by this Court on being prima facie, satisfied that the outer limit prescribed

under Section 12(10) of the West Bengal Panchayat Act, 1973 had expired.

Mr. Maitra, learned senior Advocate appearing on behalf of the requisitionists submits that the interim period when the government offices were closed should be taken into account while computing the period of thirty days. He further submits that the Hon'ble Apex Court and this Court have held in numerous cases that once the Pradhan had lost the confidence of the members, he did not have the right to continue in office for a single day. He is apprehensive that in the meantime, the Pradhan might indulge in activities detrimental to the gram panchayat.

I have considered the rival contention of the parties. As the meeting could not be held within the period of thirty days which is the outer limit prescribed by law, this writ petition is disposed of granting liberty to the requisitionists to bring a fresh motion in accordance with law. If such motion is brought, the prescribed authority shall act in terms of provisions of 12(3), 12(4) and 12(5) and so on, to reach the requisition to its logical conclusion. The time period must be adhered to. The law is settled in this regard that removal of a Pradhan is a democratic process and the members who elected their

leader/Pradhan always have the right to bring a vote of no confidence. The Pradhan has to face such a situation in appropriate cases. The apprehension of Mr. Maitra with regard to bar under Section 12(11) is not justified, as the said provision is not applicable in this case. The meeting was not frustrated due to want of quorum. The entire proceeding initiated on and from May 6, 2021 up to the issuance of notice dated June 8, 2021 stand quashed. The question whether the period when the government officers were closed due to the pandemic, should be excluded while computing the period of 30 days, is not decided in view of the order passed herein. The requisitionists are at liberty to proceed denovo.

This Court has not gone into the merits of the issues.

This writ petition is thus disposed of.

There will be however no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)