

29.07.2021
Sl. No.20
srm

W.P.A. No. 11716 of 2021
Obaidur Rahaman
Vs.
The State of West Bengal & Ors.

Mr. Sabyasachi Chatterjee,
Mr. Akashdeep Mukherjee
...for the Petitioner.

Mr. Ayan Mitra
...for the Respondent No.21.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata
...for the State.

Affidavit of service is taken on record.

The petitioner is one of the requisitionists. A requisition was brought on July 2, 2021 for removal of the Pradhan of Kshempur Gram Panchayat, District Malda. The prescribed authority issued a notice on July 8, 2021, *inter alia*, intimating that the meeting pursuant to the requisition could not be held due to reasons beyond the control of the prescribed authority.

Mr. Mitra, learned Advocate appearing on behalf of the Pradhan of the Gram Panchayat, submits that the requisition was not sent to the Pradhan in terms of Section 12(2) of the West Bengal Panchayat Act, 1973. He further submits that no proceedings can be held pursuant to such a defect notice.

Mr. Mahata, learned Additional Government Pleader, appearing on behalf of the prescribed authority, submits that

as the outer limit of 30 days is over, the entire proceeding stands vitiated.

Having heard the learned Advocate appearing for the respective parties, this writ petition is disposed of by setting aside the requisition notice dated July 2, 2021 along with the subsequent notice dated July 8, 2021 issued by the prescribed authority, as the statutory period prescribed under Section 12(10) has expired. The requisitionists are at liberty to bring fresh requisition in compliance with the provisions of Section 12(2) of the West Bengal Panchayat Act, 1973. The said requisition shall be reached to its logical conclusion by the prescribed authority by following the provisions of Sections 12(3) and 12(4) of the said Act.

As the requisition has been set aside due to lapse of time, the bar under Section 12(11) of the said Act shall not be applicable.

The notice of requisition, if brought, shall be sent to the address of the Pradhan of the concerned Gram Panchayat, which is supplied in Court today by his learned Advocate, Mr. Mitra to Mr. Chatterjee. The notice in terms of Section 12(2) of the said Act shall be served upon the Pradhan.

The prescribed authority shall act and proceed in accordance with law and if necessary, shall requisition for

police protection which shall be provided by the police authorities, mandatorily.

It is made clear that the time period mentioned in the statute shall be adhered to.

The writ petition is, thus, disposed of.

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

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

(Shampa Sarkar, J.)