

04.08.2021
Sl. No.2
srm

W.P.A. No. 11727 of 2021
Sanatan Mondal & Ors.
Vs.
The State of West Bengal & Ors.

Md. Sabir Ahmed,
Mr. Shraman Sarkar,
Mr. A. Saha

...for the Petitioner.

Mr. Sujay Banduyopadhyay,
Mr. Jagajyoti Das

...for the Pradhan.

Mr. Anirban Ray, Id. G.P.
Mr. Raja Saha,
Ms. Rupsa Chakraborty

...for the State.

Affidavit of service is taken on record.

The writ petitioners are the requisitionists who had brought a motion seeking removal of the Pradhan of Sahabajpur Gram Panchayat under Kaliachak-III Development Block, District Malda.

It is contended by Mr. Ahmed, learned Advocate appearing on behalf of the petitioners, that the prescribed authority failed to issue notice within five working days as per Section 12(3) of the West Bengal Panchayat Act, 1973. Accordingly, a demand of justice was sent to the prescribed authority by the learned Advocate for the requisitionists. It is alleged that despite having received the said letter, the prescribed authority did not take any action in terms of the

provisions of Sections 12(3) and 12(4) of the West Bengal Panchayat Act, 1973.

Mr. Raja Saha, learned Advocate appearing on behalf of the State-respondents, has filed an instruction sent by the Inspector-in-Charge, Kaliachak PS, District-Malda, from which it appears that due to the pandemic situation, police force could not be deployed although the prescribed authority had sought police assistance.

Mr. Bandyopadhyay, learned Advocate appearing on behalf of the Pradhan, submits that the time period as prescribed by the statute has expired and meeting has not been held, the requisition notice has lost its force.

Having considered the rival contentions of the parties, this Court is of the opinion that as the time period prescribed by the Section 12(3) of the said Act for issuance of the notice has expired, and no meeting has yet been called by the prescribed authority, the requisition and subsequent actions have all become invalid. The requisition is set aside.

Under such circumstances, the writ petition is disposed of granting liberty to the requisitionists to bring a fresh requisition in terms of Section 12(2) of the said Act. If such requisition is made, the prescribed authority shall act and proceed under Sections 12(3), 12(4) onwards of the said Act and reach the requisition to its logical conclusion in

accordance with law. The bar under Section 12(11) shall not be applicable.

This Court has not gone into the question of the competence of the Pradhan to remain in office as the same shall be decided in the floor test at the meeting. However, the delay on the part of the prescribed authority in acting in accordance with law has denied the requisitionists their democratic right to remove the Pradhan in accordance with law.

The prescribed authority shall ensure that if any subsequent requisition is brought, the same shall be acted upon in terms of the statute by adhering to the time period. The police authorities are directed to render all assistance as and when required. Any delay or inability on the part of the police authority shall be taken as non-compliance of this order.

This 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.)