

30.07.2021
Sl. No.9
srm

W.P.A. No. 11786 of 2021
Aminur Alam & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Ayan Banerjee,
Mr. Joy Chakraborty

...for the Petitioners.

Mr. Anirban Sarkar,
Mr. M. Ghosh

...for the Respondent No.7.

Mr. Anirban Ray, Id. GP
Mr. Raja Saha,
Mr. Sayan Sinha

...for the State.

Affidavit of service is taken on record.

The names of the respondent Nos.9 and 10 be deleted as the same have been included in the array of the respondents by mistake. They are already added as the petitioners.

Learned Advocate-on-record for the petitioners be allowed to insert the necessary correction.

The petitioners are the requisitionists who brought a requisition in terms of the provisions of Section 101 of the West Bengal Panchayat Act, 1973 for removal of the respondent No.7, who is the Sabhapati of Kaliachak II Panchayat Samiti, District Malda. The said requisition was brought on March 30, 2021. Thereafter the meeting for removal was not held, on account of non-availability of adequate police

force. Earlier, the matter was brought to this Court at the instance of the petitioners, when this Court directed that after the pandemic situation was over, a meeting should be called. The petitioners made a representation before the concerned Sub-Divisional Officer to hold the meeting. The date of the meeting was fixed on July 16, 2021.

It is submitted that even on July 16, 2021, the meeting was not held, as the police authorities did not render assistance to the prescribed authority. The petitioners submit that their democratic rights are being curtailed by repeated postponement/cancellation of the meetings.

Having considered the entire records of this case and the facts as narrated hereinabove, this Court finds that on account of non-availability of police force, the requisition meetings could not be held. It is the democratic right of the requisitionists, to seek the removal of their leader who has lost their confidence, in accordance with law. They are entitled to enforce such right and any delay by the authorities will actually frustrate such right and destroy the democratic set up of the body. These institutions must run on democratic principles. In democracy all persons heading public bodies could continue provided they enjoy the confidence of the persons who comprise such bodies. This explains why this

provision of no-confidence motion has been provided under the law.

More than four months have passed from the date of the requisition but no meeting has been fixed. This Court is of the opinion that the entire process should be set aside including the requisition dated March 30, 2021 as the outer limit of 30 days is over. The requisitionists/petitioners are granted leave to bring a fresh requisition in accordance with law. If the said requisition is brought, the prescribed authority shall reach the requisition to its logical conclusion upon complying with the provisions of Sections 101(3) and 101(4) and so on, of the West Bengal Panchayat Act, 1973.

It is made clear that the law imposes a duty upon the prescribed authority to act in terms of the provisions of Section 101 of the said Act. No further delay will be permitted. The prescribed authority shall be at liberty to requisition for police support in case he apprehends breach of law and order. The respondent Nos.4 and 5 shall mandatorily render support to the prescribed authority during such meeting on the scheduled date. Failure of the police authorities in this case, will be viewed with seriousness.

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.)