

S/L 10
02.08.2021
Court. No. 19
GB

W.P.A. 11949 of 2021

Hasiman Bibi & Ors.
VS
The State of West Bengal & Ors.

(Through Video Conference)

Mr. Usaf Ali Dewan,
Mr. Asif Dewan.

...for the Petitioners.

Mr. Mahiur Sasmal.

...for the Respondent no.7.

Mr. Lalit Mohan Mahata,
Ms. Ujani Pal.

...for the State.

The writ petitioners are requisitionists. They brought a requisition before the prescribed authority to call a meeting for removal of the Pradhan of Daulatpur Gram Panchayat on July 7, 2021. The prescribed authority asked the requisitionists to satisfy the authority that the requisition was properly brought. The meeting for removal of the Pradhan was not held. The prescribed authority verbally informed the petitioners that the police did not render any assistance and as such, the date for holding the meeting for removal of the Pradhan could not be fixed.

Mr. Dewan, learned advocate appearing on behalf of the petitioners submits that 11 out of 15 members have lost confidence in their leader and brought the requisition. Their leader was elected democratically and he could stay in office and discharge his duties as a Pradhan till he enjoyed the

confidence of the members. If the Pradhan lost the confidence of his members, he did not have the right to stay in office even for a single day. Reliance has been placed on the decisions of the Hon'ble Apex Court and this Court on this issue.

Mr. Sasmal, learned advocate appearing on behalf of the Pradhan submits that the prescribed authority postponed the meeting for reasons beyond his control. Such postponement is permitted in law. He further submits that the time limit prescribed for holding the meeting has expired long ago and consequently the requisition has lost its force.

Mr. Mahata, learned Additional Government Pleader submits that the law and order situation did not permit holding of any meeting. However, he assures the Court that the prescribed authority henceforth shall act in accordance with law and the police authority shall also render assistance as and when required by the prescribed authority. Mr. Mahata also submits that the law is well-settled that a Pradhan, who has lost the confidence of the people, does not have the right to continue as a leader without the support of the members.

This Court is not expressing any opinion on the right or competence of the Pradhan to stay in office, that has to be tested in the floor of the house in terms of the statute. However, there is no quarrel with the proposition of law that the members have a right under the law to remove their leader if they have lost confidence in him. This right of the

members cannot be taken away by inordinate delay on the part of the prescribed authority in holding the meeting as per law.

The writ petition is disposed of, granting liberty to the requisitionists to bring a fresh requisition in accordance with the provisions of Section 12(2) of the West Bengal Panchayat Act, 1973. If the same is brought, the prescribed authority shall proceed in term of Section 12(3), 12(4) and so on and reach the meeting to its logical conclusion. The time period prescribed by the statute should be mandatorily adhered to. The police authorities are directed to render assistance as and when required. Any laches on the part of the police authority shall be viewed very strictly. The bar under Section 12(11) of the said Act shall not be applicable in this case.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

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

(Shampa Sarkar, J.)