

10.8.2021
Court No. 19
Item no.14
sn

WPA No. 12015 of 2021

SANCHITA DAS VS. STATE OF WEST
BENGAL & ORS.
(via video conference)

Mr. Kallol Bose
Mr. Alokesh Dalai

...for the petitioner

Mr. K.J. Tewari
Ms. Rajlakshmi Ghatak

..for the respondent no.7

Mr. Raja Saha
Mr. Biswabrata Basu Mullick

..for the State

None appears on behalf of the respondent nos.
7 to 30. Let the affidavit of service be taken on
record.

The petitioner is one of the requisitionists who
had filed a requisition before the prescribed authority
on April 30, 2021. The respondent nos.8 to 16 are
also other requisitionists. The requisition was for
removal of the Upa-Pradhan of Bethuadahari No. 1
Gram Panchayat. Mr. Tewari represents the Upa-
Pradhan. The petitioner wants the meeting for
removal of the Upa-Pradhan to be held and prays for
necessary directions.

The allegation of the petitioner is that the
requisition was brought on April 30, 2021 and the
date for holding of the meeting was fixed on May 18,
2021. According to the petitioner, the said meeting
was not held due to pandemic situation and

thereafter the time limit prescribed under section 12(10) of the West Bengal Panchayat Act, 1973 expired.

It is the contention of the petitioner that the requisitionists have a right to bring a requisition in terms of Section 12(2) of the said Act and they also have a right to remove the Upa-Pradhan if they have lost confidence in the Upa-Pradhan.

Mr. Tewari learned advocate appearing on behalf of the Upa-Pradhan submits that the writ petition does not merit consideration as the requisition notice has lost its force. He further submits that in other meetings, members have also supported the Upa-Pradhan on certain issues.

In my opinion, the provision for removing an elected representative such as Upa-Pradhan is of fundamental importance to ensure the democratic functioning of the institution as well as to ensure the transparency and accountability in the functions performed by the elected representatives. These institutions must run on democratic principles. In democracy all persons heading public bodies can continue provided they enjoy the confidence of the persons who comprise such bodies. This is the essence of democratic republicanism. If the Upa-Pradhan has lost support of the majority of the members, he cannot remain in office for a single day.

Having considered the rival contentions of the parties as the statutory time to complete the process has already expired, the requisition and the subsequent actions have become infructuous. The requisition has accordingly lost its force.

This writ petition is disposed of with liberty to the requisitionists to bring a fresh motion in terms of Section 12(2) of the said Act, 1973. If such requisition is brought, the prescribed authority shall satisfy himself with regard to the compliance of Section 12(2) of the said Act and then act and proceed in terms of Section 12(3) and 12(4) onwards to reach the same to its logical conclusion within the period mentioned in the statute.

This Court is not making any observation on the right of the Upa-Pradhan to continue in his office as the said issue will be decided at the meeting itself. If necessary, the prescribed authority may seek police protection. Police protection shall be rendered without any delay or laches if called for by the prescribed authority. The bar under Section 12(11) of the said Act shall not be applicable.

This writ petition is 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.)