

30.07.2021
Sl. No. 105
sn

W.P.A. No. 11991 of 2021

IBRAHIM SK

Vs.

THE BLOCK DEVELOPMENT OFFICER & PRESCRIBED
AUTHORITY, LALGOLA BLOCK & ORS.

Mr. Probal Das

Mr. Ibrahim Sk.

...for the Petitioner.

Mr. Anirban Roy

Mr. Raja Saha

Ms. Sangeeta Roy

...for the State.

Mr. Usof Ali Dewan

Mr. Asif Dewan

...for the respondent nos. 8-19

The petitioner is the Upapradhan of Nashipur Gram Panchayat No.1. The petitioner's grievance is that due to the pandemic situation, the meeting for removal of the Upapradhan scheduled to be held on August 2, 2021 should not be held. According to the petitioner, some of the members of the Gram Panchayat have not been served with the notice. It is further contended that the provisions of Section 12(3) have not been followed by the prescribed authority. The notice under Form 1E was issued on July 8, 2021.

The meeting could not be held. Thereafter, again on July 23, 2021, the prescribed authority issued a notice under Form 1E fixing the meeting for removal of the Upapradhan on August 2, 2021. However, it appears that the meeting could not be held earlier for reasons beyond the control of the prescribed authority. Thereafter, the prescribed authority issued a notice for holding a meeting on August 2, 2021. August 2, 2021 appears to be the 31st day. Whereas, Section 12(10) of the West Bengal Panchayat Act, 1973 prescribes an outer limit of 30 days for the entire action to be completed by the prescribed authority.

Under such circumstances, the impugned notice dated July 23, 2021 as also the requisition notice dated July 2, 2021 are set aside only on the ground of delay. The requisitionists are granted liberty to proceed in accordance with law under Section 12(2) of the said Act. The requisitionists have a right to remove their leader in accordance with law. This is the essence of democracy. If such requisition is brought, the

prescribed authority shall adhere to the time limits fixed by the statute and comply with sections 12(2) and 12(4) of the said Act. The bar of Section 12(11) will not be applicable.

If the prescribed authority finds that there may be law and order problems, the prescribed authority shall file a requisition for adequate police force and the respondent No.5 shall mandatorily provide police assistance to the prescribed authority. The democratic rights of the requisitionists cannot be curbed.

This writ petition is thus 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.)