

18.08.2021
Sl. No.7
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W.P.A. No. 12428 of 2021
Balika Orang.
Vs.
The State of West Bengal & Ors.

Ms. Rajlakshmi Ghatak ...for the Petitioner

Mr. Raja Saha
Mr. Prabir Kumar Ray ...for the State.

Mr. Soumya Majumder
Mr. Soham Bandopadhyay
..for the respondents 7-13

The petitioner is the pradhan of Banjora Gram Panchayat. He has challenged the notice dated August 2, 2021 issued by the prescribed authority under Form 1E of Sub-rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975. The petitioner alleges that the requisitionists/respondent nos. 7 to 13 brought a requisition under Section 12(2) of the West Bengal Panchayat Act, 1973 on June 17, 2021. Thereafter, a meeting was fixed on July 2, 2021 for removal of the pradhan by the prescribed authority in terms of the provisions of Section 12(3) and 12(4) of the said Act. On June 30, 2021 the prescribed authority issued a notice that the meeting could not be held due to the pandemic situation. In the meantime, the outer limit of 30 days expired. By a notice dated August 2, 2021, the prescribed authority fixed August 10, 2021 as the date of the meeting for removal of the pradhan. It is

submitted by the petitioner as also by Mr. Saha, learned advocate appearing for the State respondents, that admittedly the period of 30 days being the outer limit as prescribed under Section 12(10) of the West Bengal Panchayat Act, 1973 had expired and the meeting scheduled to be held on August 10, 2021, was beyond the outer limit of 30 days.

Mr. Majumdar, learned Advocate appearing for the requisitionists submits that if the meeting could not be held within 30 days due to the pandemic situation, the delay would not be fatal and Section 12(10) of the said Act will not apply.

The Court is of the opinion that the requisition dated June 17, 2021 cannot be revived in such a manner, or else, there will not be an end or closure to the process, which the legislature intended to be carried out and completed in a time bound manner. The statute has fixed a time limit within which the prescribed authority is required to act at every step.

As the statutory limit of 30 days to complete the entire process from receiving the motion to the final order of removal as prescribed under section 12(10) of the West Bengal Panchayat Act, 1973 has expired, the requisition and the notice dated August 2, 2021, notice for holding the meeting and all subsequent actions pursuant to the said requisition are set aside.

The Court is conscious of the fact that these institutions 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. In my opinion, the provision for removing an elected representative such as the Pradhan or the 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.

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

This Court is not making any observation on the right of the Pradhan to continue in his office as the said issue will be decided in the meeting itself. If necessary, the prescribed authority may seek police protection, which shall be rendered without any delay or laches on the part of the police authorities. In addition to the modes of service prescribed by Section 12(2) of the said Act, the requisition shall be pasted at a conspicuous

place in the office of the gram panchayat as also in the residence of the Pradhan, if the Pradhan avoids service.

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.)