

S/L 19
12.08.2021
Court. No. 19
GB

WPA of 12584 of 2021

Padmabati Mudi
Vs.
State of West Bengal & Ors.

(Through Video Conference)

*Mr. Biswajit Hazra,
Mr. Subhodip Paramanik,
Mr. Arif Md. Khan,
Mr. Archisman Jain.*

...for the Petitioner.

*Mr. Jaharlal De,
Mr. Shamim Ul Bari.*

...for the State.

Affidavit-of-service filed in Court today be kept with the record.

The petitioner is the Pradhan of Jabrrah-Jhapra II Gram Panchayat. The petitioner contends that the meeting scheduled to be held on August 13, 2021 for removal of the Pradhan on the basis of the requisition made by the requisitionists in accordance with Section 12(2) of the West Bengal Panchayat Act, 1973, should not be held due to the pandemic situation.

No other point has been raised with regard to the legality, validity or correctness, either of the notice of requisition or the notice under Form 1E, Sub-Rule (2) or Rule 5 of the West Bengal Panchayat (Constitution) Rules, 1975. The only contention of the petitioner is that during the pandemic situation the meeting cannot be held. The Government of West Bengal has issued an order being Memo

No.753/IV-ISS/2M-33/2020 dated July 29, 2021, from which it will appear that government programmes may be allowed in indoor places with not more than 50% of the total seating capacity. When the order of the Government is clear that even meetings, functions and gatherings can be allowed by maintaining COVID protocol with 50% seating capacity in indoor halls and outdoor activities have also been permitted with restrictions, this Court does not find any order in favour of the petitioner which says that official meetings or statutory obligations and duties to be undertaken for proper functioning of government office or offices like the Gram Panchayat can be stalled because of the pandemic situation. All Government offices are functioning, the employees are attending their offices. Such offices have resumed functioning since June 15, 2021 with full strength. As such, this Court does not find any reason to stall the meeting to be held in the interest of democracy and as per the provisions of the statute.

In my opinion, the provision for removing an elected representative such as the 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 Pradhan has lost support of the majority of the members, he cannot remain in office for a single day.

It is made clear that the prescribed authority shall allow only the officials and the members of the Gram Panchayat, the petitioner, the police authorities and his assistants and observer during the meeting, but persons who are not connected with the meeting shall not be allowed in the vicinity. The Officer-in-Charge, Para Police Station is directed to render support and ensure that the meeting is held with full protection and by maintaining COVID protocols.

This order shall not be construed as an observation on the ability of the Pradhan to continue or discontinue in office. The said issue shall be decided in the meeting itself.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

Parties are directed to act on the communication of the learned advocates.

(Shampa Sarkar, J.)