

18.08.2021
Sl. No.11
srm

W.P.A. No. 12799 of 2021
Bharat Chandra Mandal
Vs.
The State of West Bengal & Ors.

Mr. Atarup Banerjee,
Mr. Mritunjoy Chatterjee
...for the Petitioner.

Mr. Lalit Mohan Mahata,
Ms. Ananya Neogi
...for the State.

Mr. Uday Narayan Betal,
Mr. Debapriya Majumder
...for the Respondent Nos.8,9,10,27&30.

Mr. Soumik Ganguli,
Mr. Raju Bhattacharyya
...for the Respondent Nos.11,12,22,28,35&36.

Md. Golam Nure Imrohi
...for the Respondent Nos.21,34,37,38&46

Affidavit of service is taken on record.

The writ petitioner is the one of the requisitionists who along with other members had brought a requisition on March 12, 2021, requesting the prescribed authority to convene a meeting for removal of the Sabhapati of Kaliachak-III Panchayat Samity, District-Malda on the ground of loss of confidence. The prescribed authority by a notice dated March 19, 2021 called a meeting for removal of the Sabhapati fixing the date on April 7, 2021. Thereafter, on March 22, 2021 the prescribed authority adjourned the meeting due to the

publication of the Model Code of Conduct by the Election Commission of India.

It is contended by the petitioner that the petitioner along with other requisitionists wrote a letter to the prescribed authority to convene the meeting, which was earlier adjourned on March 22, 2021, but the prescribed authority sat tight over the matter. Hence, the petitioner has come up before this Court.

Having heard the rival contentions of the parties, as the entire period, as prescribed under the statute, has expired, the requisition dated March 12, 2021 as also the notice of motion dated March 19, 2021 have all become infructuous and are liable to be set aside.

The requisition notice as also the notice of the motion for removal of the Sabhapati and all subsequent actions are set aside and cancelled.

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. In my opinion, the provision for removing an elected representative such as the Sabhapati 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 101(2) of the said Act. If such requisition is brought, the prescribed authority shall act and proceed in terms of the provisions of Sections 101(3) and 101(4) onwards of the said Act and reach the requisition to its logical conclusion within the time limit prescribed by the statute. The bar under Section 101(11) of the said Act shall not be applicable.

This Court is not making any observation on the right of the Sabhapati to continue in the 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. If the sabhapati avoids service, a copy of the requisition will be posted at a conspicuous place in the office of the gram panchayat as also at the residence of the Pradhan in addition to the modes of service prescribed by the statute.

This writ petition is thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)