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19.08.2021.
Ct. No. 11.
F.B./ G. S. Das

**MAT 809 of 2021
with
IA No. CAN 1 of 2021**

**Md. Tafazzal Hoque
-Vs.-
The State of West Bengal & Ors.**

(Via Video Conference)

**Mr. Partha Sarathi Bhattacharyya,
Mr. Mahim Sashmal,
Mr. Raju Bhattacharyya,
Mr. Arunava Maiti
..... For the Appellant.**

**Mr. Lalit Mohan Mahata,
Ms. Ujani Pal (Samanta)
..... For the State.**

**Mr. Usaf Aal Dewan,
Mr. Asif Dewan
..... For the Respondent
Nos. 6 to 16.**

This appeal is directed against an order dated 2nd August, 2021 passed by the Hon'ble Single Judge in WPA 11949 of 2021.

The original writ petitioners had brought a requisition before the prescribed authority to call for a meeting for the removal of the *Pradhan* of a Gram Panchayat on 7th July, 2021. The prescribed authority asked the requisitioner to satisfy the authority that the requisition was properly lodged. The meeting

could not be held. The police did not render assistance for the date fixed purportedly due to some law and order problem.

The original writ petition was disposed of, *inter alia*, granting liberty to the requisitionist to bring fresh requisition in accordance with Section 12(3) of the West Bengal Panchayet Act and the prescribed authority was to proceed in terms of Section 12(3) and 12(4) of the said Act and the police authorities were to render necessary assistance.

Mr. Bhattacharjee, Learned Senior Counsel, appearing on behalf of the appellants submits as follows. The second requisition notice was given on 4th August, 2021 pursuant to the direction of the Hon'ble Single Judge fixing 20th of August, 2021 as the date for meeting. However, the said date being declared as holiday, the next date for meeting was fixed on 26th of August, 2021. Thus, section 12 of the said Act has not been followed. It was not adhered to even in respect of the first notice. Besides, a notice under Section 11 of the Panchayet Act dated 26th July, 2021 was issued for removal of requisitionist as member of the said Gram Panchayet. The same is still pending. The action was brought because of pendency of a criminal case against the said respondent no.7. In

view of all these irregularities, the proceedings for removal of the *Pradhan* ought to be set aside.

Mr. Dewan, Learned Counsel for the respondent no.7 disputes the contentions of the appellants and submits as follows. Section 12 of the Panchayet Act has been strictly followed in this case. As 20th August, 2021 was declared a holiday, the next date was fixed for the meeting on 26th August, 2021. In any event, mere registration of a FIR on cognizable charges against an individual cannot disqualify him as a member of a Gram Panchayet as per Section 11 of the said Act.

Mr. Mahata, Learned Counsel representing the State, submits that there is no violation whatsoever of Section 12 of the Panchayet Act. The next date for the meeting for removal of *Prodhan* has been fixed on 26th August, 2021 as 20th August, 2021 was subsequently declared a holiday.

First, the record shows that the notice under Section 11 was given on 26 July, 2021 while the first requisition notice for the removal of the *Prodhan* and other members was given on 7th July, 2021. Therefore, one might very well argue that the notice under Section 11 was a counter-blast to the notice given for the removal of the *Prodhan* and other members.

So far as compliance of sub-section (4) of Section 12 of the said Act is concerned, it is quite evident that the date for the meeting was shifted from 20th August, 2021 to 26th August, 2021 due to a reason beyond the control of the authority, the said earlier date having been declared a holiday.

In any event, the Hon'ble Single Judge only directed that a fresh requisition should be given and the proceeding should be continued in terms of Section 12 of the West Bengal Panchayet Act. This ought to be taken to its logical conclusion.

In view of the above, we do not find any reason to interfere with the order passed by the Hon'ble Single Judge and the appeal is thus, dismissed.

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stand thus **disposed of**.

Since affidavits are not invited, all other allegations which are the subject matter of discussions in this appeal, are deemed to be denied and disputed.

All parties are to act in terms of a copy of the order downloaded from the official website of this Court.

Urgent photostat certified copies of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Jay Sengupta, J.)

(Subrata Talukdar, J.)