

19.08.2021
Sl. No.11
srm

W.P.A. No. 12888 of 2021

Chaina Bauri
Vs.
The State of West Bengal & Ors.

Mr. Partha Deb Burman,
Mr. Sougata Mitra,
Mr. Rameshwar Sinha,
Mr. Santanu Sett,
Ms. Anikta Dey

...for the Petitioner.

Despite service none appears on behalf of the respondents. Affidavit of service is taken on record.

Mr. Lalit Mohan Mahata, learned Senior Government Advocate, is present in Court. He usually appears in such matters and as such, is requested by the Court to accept service on behalf of the State-respondents with a junior of his choice. The learned Government Pleader is requested to regularise such appointments.

The writ petition has been filed by the Pradhan of Bhawridih Gram Panchayat, District-Purulia. The petitioner has challenged the requisition notice dated August 9, 2021 and also the notice issued under Form 1E of sub-rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975. The main contention of the petitioner is that the requisition is stigmatic. The second contention is that the meeting for

removal, has been fixed on August 20, 2021, which has been declared as a public holiday by the State Government. The notice under challenge has been issued on August 12, 2021.

Mr. Mahata, learned Senior Government Advocate, submits that the requisition read as a whole cannot be treated to be stigmatic. According to Mr. Mahata, the requisitionists have expressed their desire to remove the Pradhan on the ground of lack of confidence as there are disagreements between the Pradhan and some of the members with regard to planning and developmental works.

Having heard the learned Advocates for the respective parties, the first contention of Mr. Deb Burman, learned Advocate for the petitioner/Pradhan, that the requisition is stigmatic, is not accepted by the Court. The requisition cannot be read as a statute but has to be read as a whole. The interpretation given by Mr. Deb Burman is on the basis of a single line picked out from the entire context of the requisition notice. Reading the requisition in its totality and the impact it has on a reasonable man, this court is of the opinion that the foundation of the requisition is not on allegations of misconduct, incompetence or lack of diligence. Disagreements between the Pradhan and the members cannot be treated to stigmatic. This statement of the requisitionists shall not have any impact on the future prospects of the petitioner who is an

elected member of the concerned Gram Panchayat. The requisition and the notice under Form 1E are in order. No interference is called for. However, the prescribed authority cannot hold the meeting on August 20, 2021, which is a declared public holiday.

This situation is unforeseen and beyond control of the prescribed authority. The prescribed authority was not aware on August 12, 2021 that August 20, 2021 would be declared as a public holiday by the Government of West Bengal. Thus, the situation being beyond the control of the prescribed authority, the meeting to be held on August 20, 2021 has to be re-scheduled by an order of this court.

Under such circumstances, the prescribed authority is directed to hold the meeting on August 24, 2021 at 1.00 p.m. The learned Advocates for the respective parties are directed to intimate a gist of this order to all concerned via whatsapp and email. The prescribed authority as also the Pradhan shall send a server copy of this order to the office of the gram panchayat and the local police station. It is made clear as 7 days clear notice about the meeting had already been given, further 7 clear days notice will not be required. The prescribed authority shall issue a notice on the basis of this order within 5.00 p.m. today indicating the time and date of the re-scheduled meeting for moving the motion for removal of the

Pradhan. The notice will be sent to the office of the concerned Gram Panchayat. A copy of the notice shall be displayed in the office of the prescribed authority as also at a conspicuous place in the office of the Gram Panchayat by 6.00 p.m. today.

As this is a situation beyond the control of the prescribed authority, the meeting shall be held as directed hereinabove. The statutory time period shall not expire even if the meeting is held on August 24, 2021.

All parties including the prescribed authority will act on the basis of this order.

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.)