

07.09.2021
Item No.12
Crt.No.11
K.B.

**M.A.T. 850 of 2021
with
I.A. No. CAN 1 of 2021**

**Abdul Sekh
-versus-
The State of West Bengal & Ors.**

(Via Video Conference)

Mr. Saptanshu Basu
Mr. Sukanta Chakraborty
Miss Sreyashee Biswas
Mrs. Benajit Hasna
Mr. Anindya Haldar
... For the appellant.

Mr. Santanu Mitra
Mr. Pranab Halder
... For the State-respondents.

Mr. Anjan Bhattacharya
Md. Abdul Alim
Md. Habibur Rahaman
Mr. Amritalal Chatterjee
Mr. M. A. Salik
... For the Respondent Nos.16-25.

Party/parties is/are represented in the order of
their name/names as printed above in the cause title.

The appellants are represented by Mr. Basu,
Learned Senior Counsel with Mr. Chakraborty, Learned
Counsel.

The short point urged by the appellants is that the
Hon'ble Single Bench by the order impugned dated 11th
August, 2021 while quashing the requisition notice dated
3rd August, 2021 brought by the Private Respondents to
this appeal, ought not to have granted liberty to the
requisitionists to bring a fresh requisition notice with

immediate effect under Section 12(2) of the West Bengal Panchayat Act, 1973 (for short the 1973 Act).

The Hon'ble Single Bench ought not to have also directed that the Prescribed Authority (*PA*) shall act and proceed in terms of the other relevant Sections of the 1973 Act, i.e. 12(3) and 12(4) as well as express an opinion that the bar under Section 12(11) also of the said Act, shall not be applicable.

The further point is made by the appellants that the directions granting police protection for holding the requisition meeting as well as service of the requisition notice on the writ petitioner/the Prodhan who is also the appellant herein, are over and beyond the pleadings and the prayers in the writ petition.

Both Mr. Mitra, Learned State Counsel with Mr. Halder, Learned Counsel appearing for the State-respondents and, Mr. Bhattacharya, Learned Counsel for the requisitionists/the Private Respondents to this appeal, submit that the directions passed by the Hon'ble Single Bench are squarely within the statutory provisions. With or without the directions granting the requisitionists opportunity to proceed in terms of the sections as enumerated in the order impugned (*supra*), it is always open to the requisitionists to proceed in accordance with law and for the *PA* as well as the police to perform their duties also in accordance with law.

Having heard the parties and considering the materials placed, this Court finds persuasive effect in the argument of the appellant connected to the directions passed by the Hon'ble Single Bench over and beyond the relief granted quashing the requisition notice dated 3rd August, 2021.

At the same however, time this Court must also observe that the Hon'ble Single Bench, at the end of successive writ petitions over the self-same issue, was duty bound to protect the statutory provisions and therefore the above directions be read in the nature of the role of a Writ Court to ensure that the statutory provisions are taken to its logical conclusion.

It is thus in the backdrop of the above discussion, this Court while permitting the parties to read the liberty granted by the Hon'ble Single Bench more in the nature of fulfillment of the statutory process, directs the *PA* as well as the local Civil and Police Administration to ensure that the democratic process is carried to its logical conclusion.

No further orders are called for.

Since affidavits are not necessary, they are invited. Allegations made shall be deemed to be denied and disputed.

The appeal and the applications are thus not detained.

MAT 850 of 2021 with **I.A. No. CAN 1 of 2021**
stand accordingly **disposed of**.

All parties to act on a gist of the communication of this order.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Kesang Doma Bhutia, J.) -

(Subrata Talukdar,J.)