

25.08.2021

Item No.

UL-2

Crt.No.11

K.B.

**M.A.T. 844 of 2021
with
I.A. No.CAN 1 of 2021**

**Mina Mandal
-versus-
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Rabiul Islam
Mr. Shamim-ul-Bari
... For the appellant.

Ayan Banerjee
Mrs. Debasree Dhamali
... For the private respondent.

Mr. Anirban Roy. Ld. G.P.
Mr. Raja Saha
Mr. Bibekananda Tripathy
... For the State-respondents.

This matter is heard on grounds of urgency upon mentioning by Learned Counsel for the appellant, Mr. Shamim-ul-Bari led by Mr. Rabiul Islam, Learned Counsel.

The short issue involved in this appeal which arises out of an order of the Hon'ble Single Bench dated 19th August, 2021 is the holding of the requisition meeting for removal of the Prodhan of the Gangaprasad Gram Panchayat, P.S. Mothabari, District-Malda (for short hereinafter referred to as the said Gram Panchayat) brought in by the requisitionists, who are the private respondents both to this appeal and were the private respondent to the writ petition.

The appellant is the Upa-Prodhan of the said Gram Panchayat. The appellant submits that the notice of requisition is void since the Prodhan against whom the notice of requisition has been brought has not taken over charge at the end of his period of suspension.

Since the Prodhan has not taken over charge, the office of the Prodhan is being managed by the Upa-Prodhan and the requisitionists are barred from bringing a notice of removal against a person who is physically not there in the post.

Per contra, Mr. Ayan Banerjee, Learned Counsel appearing for the Private Respondent/requisitionists and Mr. Raja Saha, Learned State Counsel, point out that there is a clear lack of *locus standi* on the part of the appellant to maintain this writ petition or the appeal.

It is submitted that the Upa-Prodhan merely holds charge of the office of the Prodhan as permitted by law to do so and, cannot maintain a cause-of-action which is personal to the elected office of the Prodhan.

It is further argued that upon his formal reinstatement at the end of his suspension period, the Prodhan must be held to be *de jure* in office and therefore the subject of the requisition notice merely because the Prodhan has not taken over charge does not disqualify the requisitionists from bringing a formal notice for removal of a person who has been reinstated but is avoiding taking charge.

Having heard the parties and considering the materials placed, this Court cannot but take a view which is consistent with the stand taken by Learned Counsel for the Private Respondents and the State.

This Court finds no illegality in the requisition notice and also finds absence of *locus standi* of the appellant in bringing this cause of action before Court.

In the backdrop of the above discussion, neither the application nor the appeal are detained.

MAT 844 of 2021 with I.A. No. CAN 1 of 2021 stand accordingly **dismissed**.

Affidavits are neither necessary nor invited. Allegations therefore are deemed to be denied.

All parties shall 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.

(Jay Sengupta, J.)

(Subrata Talukdar, J.)