

12. 23.11.2021
Ct. No.06
Tanmoy

**M.A.T. 855 of 2021
With
IA No: C.A.N. 1 of 2021**

**Rabiul
-Versus-
The State of West Bengal & Ors.**

(Through Video Conference)

Mr. Sabyasachi Chatterjee, Adv.

...for the appellant.

Mr. Srijib Chakraborty, Adv.

...for the respondents.

Mr. Lalit Mohan Mahata, Ld. Sr. Govt. Adv.,
Mr. Prasanta Behari Mahata, Adv.

...for the State

This appeal has been preferred challenging a judgment and order dated August 10, 2021, passed by the learned Single Judge in W.P.A.12439 of 2021 dismissing the writ petition.

Mr. Sabyasachi Chatterjee, learned advocate appearing on behalf of the then *Pradhan* of the relevant Gram Panchayat, submits that in moving the motion of no confidence, the requirement of Section 12(2) of the West Bengal Panchayat Act, 1973, has not been complied with. It is the case of the appellant before us that though notice was sent to him at the residential address, the same was not received by him, and as such, the meeting held on August 11, 2021 in

terms of 12 (3) of the said Act has no legal consequence.

Mr. Srijib Chakraborty, learned advocate appearing for the respondent nos. 8 to 16 on the other hand submits that notice of the meeting was received by the Secretary of the relevant Gram Panchayat and it is the specific finding of the learned Single Judge that the said notice was handed over to the appellant.

Mr. Lalit Mohan Mahata, learned Advocate appearing on behalf of the State, submits that in the meeting held on August 11, 2021, the appellant was removed as the *Pradhan* of the Gram Panchayat. The appellant had participated in the meeting. He cannot turn around and challenge the legality of the said meeting at this stage. Mr. Mahata, further, submits that through a democratic process the appellant has already been removed and as such, this appeal has become infructuous.

The relevant part of Section 12 reads as follows:

“12. Motion of no confidence or removal of Pradhan or Upa-Pradhan. –

(2) For the purpose of removal of the Pradhan or the Upa-Pradhan, one-third of the existing members referred to in sub-section (1) subject to a minimum of three members shall sign a motion in writing expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their intention to remove the Pradhan or the Upa-Pradhan, indicating party affiliation or independent status of each of such members and

either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Gram Panchayat office and another copy shall be sent by registered post at his residential address.”

It is clear that one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Gram Panchayat office while another copy of the notice has to be sent by registered post to his residential address. Two different words, ‘delivered’ and ‘sent’ employed in the same Sub-section indicate the different intention of the legislature.

When the motion is served upon the office bearer at the Panchayat office, it has to be ascertained whether such motion has been delivered upon him or not, and in case of service at his residential address the only requirement of Section 12 (2) is that such motion has to be sent by registered post with proper postal address and required postal charges.

In view of the above findings, we do not find any merit in this appeal and, accordingly, the appeal being M.A.T. 855 of 2021 along with the connected application being IA No: C.A.N. 1 of 2021 are dismissed.

However, the appellant shall be at liberty to challenge the decision of his removal as *Pradhan* in accordance with law if he is entitled to do so.

Let urgent photostat certified copy of this order, if applied for, be supplied to learned Advocates for the parties upon compliance with all usual formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)