

19.
20.09.2021.
Ct. No. 11.
F.B.

**MAT 918 of 2021
with
IA No. CAN 1 of 2021**

(Via Video Conference)

**The Upa-Pradhan, Billagram Gram Panchayat & Anr.
-Vs.-
Biren Halder & Ors.**

**Mr. Kamalesh Bhattacharyya,
Md. Salauddin,
Md. Ahsanuzzaman
..... For the Appellants.**

**Mr. Alokesh Dalai
..... For the Respondent No. 1.**

**Mr. Dipayan Choudhury,
Mr. Suvradal Choudhury,
Ms. Priyanka Chowdhury
..... For the ECI.**

**Mr. Anirban Ray,
Mr. Raja Saha,
Ms. Rupsha Chakraborty
..... For the State.**

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

This appeal is taken up on an urgent mentioning
by the appellants citing the ground that the Upa-
Pradhan/the appellant no. 1 of the Gram Panchayat
(GP) in issue is sought to be removed by a meeting of
members of the GP this afternoon, i.e. the afternoon of
20th of September, 2021.

Mr. Kamalesh Bhattacharyya, Learned Counsel leading Md. Salauddin, Learned Counsel, points out that the order impugned of the Hon'ble Single Bench dated 17th of August, 2021 in the writ petition has carved out a new procedure for bringing a fresh requisition notice by the requisitionists/the writ petitioners to remove the appellant no. 1/the Upa-Pradhan.

It is submitted that the procedure for service of notice as well as liberty granted to initiate a fresh requisition proceeding is not contemplated by the statute since the previous notice of requisition had become infructuous due to expiry of the statutory period of time. Hence, no further requisition notice can be brought within one year in terms of Section 12(4) of the West Bengal Panchayat Act, 1973 (for short, the 1973 Act).

Mr. Alokesh Dalai, Learned Counsel, appears for the writ petitioner/the private respondent to this appeal and the State Respondents are represented by Mr. Raja Saha, Learned Counsel led by the Government Pleader.

Mr. Dipayan Choudhury, Learned Counsel, appears for the Election Commission of India (ECI).

It is submitted both by the private respondent and Learned State Counsel that the bar under Section

12(4) does not apply since, no meeting actually took place and liberty was only granted to bring a fresh requisition notice in view of the earlier requisition having become infructuous due to efflux of statutory time.

It is also submitted by Learned Counsel for the private respondent and the State Respondents, that the liberty granted by the Hon'ble Single Bench to bring a fresh requisition notice be treated as a reiteration of the statutory procedure to uphold the democratic principle of an elected members being allowed to continue in office only with the confidence of the majority.

Mr. Dalai further produces documents to show that the appellant no. 1 has already been removed on the 17th of September, 2021 and today is the date fixed for holding election of the new Upa-Pradhan.

Having heard the parties and considering the materials placed, this Court finds no illegality in the order of the Hon'ble Single Bench.

This Court reiterates the view that the liberty granted to bring a fresh requisition notice by the Hon'ble Single Bench be read as an iteration of the prescribed statutory procedure. This Court is also of the view that the bar under Section 12(4) of the 1973 Act does not apply since no meeting was actually called and

only the earlier requisition notice had become infructuous with the efflux of time and passage of circumstances.

In the above view of the matter, no intervention is called for in the order of the Hon'ble Single Bench.

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stand thus **dismissed**.

In the backdrop of the above discussion, affidavits are neither necessary, nor invited. Allegations made stand to be denied and disputed.

All parties to act in terms of the 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.

(Kesang Doma Bhutia, J.) (Subrata Talukdar, J.)