

13. 13.12.2021
Ct. No.06
Tanmoy

**M.A.T. 1041 of 2021
With
IA No: C.A.N. 1 of 2021**

**Rusda Parveen
-Versus-
The State of West Bengal & Ors.**

(Through Video Conference)

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Mr. Raju Bhattacharyya, Adv.,
Mr. Arunava Maiti, Adv.

...for the appellant.

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

...for the State.

Mr. Atarup Banerjee, Adv.,
Mr. Anjan Bhattacharya, Adv.,
Mr. Sunny Nandi, Adv.,
Ms. Saswati Adhikary, Adv.,
Ms. Anita Shaw, Adv.

...for the respondent no.7.

By consent of the parties, the appeal and the stay application are taken up together for hearing.

This is one of those strange cases where one of the requisitionists herself moved the learned Single Judge for stalling the meeting convened by the prescribed authority pursuant to the requisition. The Notice of Motion was received by the prescribed authority on August 12, 2021. He had initially fixed the meeting on September 1, 2021. However, apparently because he had apprehended possible breach of public peace and

Police had not been able to arrange for sufficient force on September 1, 2021, the prescribed authority re-scheduled the meeting to be held on September 10, 2021. The writ petitioner contended before the learned Single Judge that September 10, 2021 being beyond 15 days from the date of receipt of the notice of requisition by the prescribed authority, the meeting would be illegal and should be stopped.

The learned Single Judge recorded that the meeting had already been held and the motion for removal of the *Pradhan* failed. The learned Judge further held that Section 12(4) of the West Bengal Panchayat Act, 1973 (hereinafter to be referred to as the 'said Act') has left some discretion in the prescribed authority for adjourning a meeting for reasons beyond his control. This was a case where, according to the learned Single Judge, the prescribed authority was compelled to adjourn the meeting for reasons beyond his control. Further, the meeting was held within 30 days' period as contemplated in Section 12(10) of the said Act. The learned Single Judge dismissed the writ petition. Being aggrieved, the writ petitioner is before us in this appeal.

We have heard learned Counsel for the parties. Mr. Bhattacharyya, learned Senior Advocate appearing for the appellant, expresses his apprehension that the phrase, "for reasons beyond his control", may be at

times used as an excuse for adjourning the meeting. Guidelines should be suggested as to when the prescribed authority would be within his powers to adjourn the meeting. Otherwise, there may be abuse of that discretionary power.

We are of the opinion that the prescribed authority, being a responsible Government officer, shall use the discretionary power *bona fide* and in genuine situations only. Any *mala fide* exercise of such power will naturally be liable to be set aside by the Courts. However, no general guidelines possibly can be laid down as no Court can anticipate all possible factual situations. We all must leave it to the good senses of the prescribed authority to honestly exercise the power vested in him by the said Act.

We find no infirmity in the order under appeal. The appeal being M.A.T. 1041 of 2021 and the connected application being IA No: C.A.N. 1 of 2021 are, accordingly, disposed of.

Let urgent photostat certified copies 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.)