

03.11.2021

Item No.14
Court No.06
Vacation Bench
DC & AM

WPA No. 17483 of 2021 (Via Video Conferencing)

In re: An application under Article 226 of the
Constitution of India;

And

Asraful Haque

-vs-

State of West Bengal & ors.

Mr. Sunny Nandy,

Mr. Subranil Saha

... For the petitioner

Mr. Himadri Sekhar Chakraborty,

Mr. Bipin Ghosh

...For the State respondents

Mr. Atarup Banerjee,

Mr. Mrityunjoy Chatterjee,

Mr. Debapriya Majumder,

Mr. Sreejeet Basu

...For the respondent nos. 6,8,9,10 & 11

Affidavit of service filed in Court today
be kept with the record.

Heard both the parties.

In this matter the petitioner being a
Upa-Pradhan has challenged notice dated 27th
October, 2021 issued by the respondent no.4
calling a meeting on motion for removal of the
Upa-Pradhan of the Gram Panchayat in
question which is to be held on 8th November,
2021 on the ground that on earlier notice
dated 21st September, 2021 for the same
purpose was not given effect to. Admittedly,
the second notice has been issued after the
expiry of thirty days from the first notice.

Learned advocate appearing for the petitioner submits that the impugned notice dated 27th October, 2021 is bad since it has been issued without taking any leave from the prescribed authority. Learned advocate for the petitioner in support of his contention relies on an order of another Coordinate Bench of this Court dated 4th October, 2021 in WPA 16402 of 2021 [Sabina Khatun (Pradhan) vs. The State of West Bengal & ors.]. Learned advocate for the petitioner could not show me any mandatory legal provision which requires leave of the prescribed authority for issuing a second notice after the expiry of statutory period of thirty days under Section 12(10) of the Panchayat Act, 1973.

Learned advocate for the private respondents distinguishes the aforesaid order dated 4th October, 2021 by contending that in that case the Court was of the view that there was multiple requisitions within thirty days period itself while in this case, had the prescribed authority proceeded on the first notice dated 21st September, 2021 after the expiry of thirty days that action of the respondent prescribed authority would have been illegal and contrary to law.

I fully agree with the submission of the learned advocate appearing for the private respondents.

Considering the submission of the parties, I am of the view that this writ petition has got no merit. Accordingly, the writ petition being WPA 17483 of 2021 is dismissed.

There shall be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Md. Nizamuddin, J.)