

34. 26.11.2021
Ct. No.06
Tanmoy

**M.A.T. 1252 of 2021
With
IA No: C.A.N. 1 of 2021**

**Arup Mondal
-Versus-
The State of West Bengal & Ors.
(Through Video Conference)**

Mr. Pratik Dhar, Ld. Sr. Adv.,
Mrityunjoy Chatterjee, Adv.,
Mr. Santanu Chatterjee, Adv.

...for the appellant.

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Mr. Usof Ali Dewan, Adv.,
Mr. Raju Bhattacharyya, Adv.,
Mr. Asif Dewan, Adv.

...for the respondent nos. 7 to 11,
13 to 15, 17, 18, 21 to 26.

Mr. Sreejeet Basu Roy, Adv.

...for the respondent nos. 12, 16,
19 & 20.

Mr. Debapriya Majumder, Adv.

...for the respondent nos. 22, 25,
27.

Mr. Tapan Kumar Mukherjee, Ld. A.G.P.,
Mr. Santanu Mitra, Adv.,
Mr. Somnath Naskar, Adv.,
Mr. K.M. Hossain, Adv.

...for the State.

The writ petitioner, the *Pradhan* of Sagardighi
Gram Panchayat under Sagardighi block,
Murshidabad, approached the Writ Court challenging a

requisition notice for his removal as *Pradhan*. The primary ground for challenge was that there were allegations of incompetence against the *Pradhan* in the requisition notice. The allegations were that the *Pradhan* had failed to carry on any developmental work in the concerned locality. The learned Judge referred to authorities and came to a conclusion that, indeed there were allegations against the *Pradhan*, which vitiated the requisition notice. Accordingly, the requisition notice was set aside.

The writ petitioner is aggrieved by the final portion of the impugned order which reads as follows :

“This court has not expressed any opinion on the competence of the pradhan to continue in office as the issue shall be decided at the meeting when called for. The prescribed authority shall be entitled to call for police help if the situation so demands and the police authorities shall ensure and take prompt action so that all police support is given to the parties involved in the meeting. Delay or laches on the part of the police authority shall be viewed strictly. It is also made clear that if the Pradhan tries to evade service of requisition then the requisitionists shall be entitled to serve the same in his office through his secretary or assistant and if, such service is not accepted, then the requisitionists will be entitled to paste the same at the office of the Pradhan in addition to sending the same by registered post to the residence of the Pradhan.”

Mr. Dhar, appearing on behalf of the appellant, submits that there was no reason for the Court to

presume that the writ petitioner would evade service of fresh requisition. Hence, the observations in the concluding portion of the order under appeal need not have been made. These observations cast some doubt, albeit indirectly, on the honesty of the writ petitioner. Prayer is made for expunction/deletion of such observations from the order under appeal.

We have heard learned Counsel for the parties and have gone through the impugned order. The learned Judge has clearly recorded that she has not expressed any opinion on the competence of the *Pradhan* to continue in office and that such issue shall be decided at the meeting. The learned Judge only, by way of abundant caution, indicated the procedure to be followed in case the fresh requisition would not be served on the *Pradhan*. According to us, this does not amount to casting any kind of aspersion on the character of the *Pradhan*. We are told by Mr. Bhattacharyya, learned Senior Advocate representing some of the private respondents that, out of 23 members, 17 members have signed a fresh requisition notice for removal of the *Pradhan*. We are sure that the writ petitioner/appellant, who holds an elected office, will fully co-operate in the conduct of a democratic process, which is sought to be initiated by way of the fresh requisition notice. We make it clear that no portion of the order under appeal will be considered to

be casting any kind of aspersion on the conduct or character of the writ petitioner/appellant.

The appeal being M.A.T. 1252 of 2021 along with the connected application being IA No: C.A.N. 1 of 2021 are, accordingly, disposed of.

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.)