

17th December, 2021
(D/L No.5)
(SKB)

WPA 20088 of 2021
(Via Video Conference)

Torina Khatun
Vs.
State of West Bengal and others

Mr. Dipankar Pal,
Mr. Jahangir Alam,
Mr. Debanik Banerjee,
Mr. Kunal Ganguly,
Mr. Shuvro prakash Lahiri
... for the petitioner.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata
... for the State.

Mr. Sabir Ahmed,
Mr. Mujibar Ali Naskar
... for respondent nos.4 to 8.

Affidavit of services filed in Court today are taken
on record.

The petitioner is the Pradhan of the Malior-II
Gram Panchayat, Harishchandrapur-II Development
Block, Malda and was elected as the Pradhan of the
said Gram Panchayat in 2018. The petitioner prays for
setting aside a notice of motion dated 8th December,
2021 by which a meeting was fixed for removal of the
petitioner as the Pradhan of the said Gram Panchayat.
The urgency shown is that the meeting is scheduled to
be held at 11 a.m. today i.e. 17th December, 2021.

According to learned counsel appearing for the
petitioner, the requisition for removal was received by

the Prescribed Authority, namely, the Block Development Officer, on 2nd November, 2021 by which the initial meeting was scheduled to be held on 23rd November, 2021. Since the date of the meeting was adjourned, the petitioner withdrew an earlier writ petition filed by him by an order of a learned single Judge of this court dated 23rd November, 2021. Counsel challenges the notice dated 8th December, 2021 for rescheduling the meeting today on various grounds including non-compliance of the provisions of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the 'said Act').

Learned counsel appearing for the State supports the petitioner while learned counsel appearing for the private respondents opposes the prayers on the ground that the construction of the relevant sections of the said Act would support the procedure undertaken by the Prescribed Authority.

The relevant provisions of the said Act are required to be taken into consideration for deciding the fate of the writ petition. Under Section 12 of the said Act dealing with 'motion of no confidence' or removal of Pradhan or Upa-Pradhan, certain procedural compliances must be met by the Prescribed Authority. Under section 12(4), a meeting of the Gram Panchayat for removal of the Pradhan/Upa-Pradhan, can only be held within 15 working days from the date of receipt of

the motion by the Prescribed Authority and the meeting cannot be adjourned or cancelled except by an order or direction of a competent court or for any other reasons beyond the control of Prescribed Authority.

Section 12(10) prescribes, *inter alia*, that the entire process commencing from submission of motion to the Prescribed Authority up to the action finally taken by him shall be completed within thirty days. The motion referred to in Section 12(10) is the motion under Section 12(2) which is given in writing by the members expressing their lack of confidence against the Pradhan or their intention to remove the Pradhan. The relevant dates in the present case, which are admitted by the parties, are that the motion for removal of the petitioner, was received by the Prescribed Authority on 2nd November, 2021. Hence, under Section 12(10), the Prescribed Authority was under an obligation to complete the entire process from submission of motion to the final action taken by him within thirty days which is 1st December, 2021. In the impugned notice dated 8th December, 2021, the meeting was rescheduled on 17th December, 2021, which is on the 47th day from the date of submission of motion to the Prescribed Authority. This is contrary to the provisions of the Act.

This court is not inclined to go into the reasons for adjourning the meeting which was previously fixed

on 23rd November, 2021 on the ground of reasons beyond the control of the Prescribed Authority, namely, the worsening law and order situation of the area since the impugned notice is in contravention of the relevant provisions of the said Act.

W.P.A.20088 of 2021 is disposed of in view of the above reasons by setting aside the notice dated 8th December, 2021 including any action taken or which may be taken pursuant to such notice. Counsel appearing for the private respondents seeks liberty to make a fresh requisition for a meeting. Such prayer cannot be entertained at this stage since the parties before the court can always approach the writ court on the strength of subsequent developments.

Since this court is informed that the meeting has already started, the concerned authorities are at liberty to act on the communication of the advocates.

(Moushumi Bhattacharya, J.)