

Ct. 05
Item No.08
21.12.2021
(suvendu)

WPA 20538 of 2021

[Via Video Conference]

Machhura Bibi Mondal
Vs.
The State of West Bengal & Ors.

Mr. Kamalesh Bhattacharya
Mr. Shahan Shah
.....for the petitioner

Mr. K.M.Hossain
Mr. F. Hazari
.....for the respondent nos. 7 to 14

Mr. Raja Saha
Mr. Biswabrata Basu Mallick
.....for the State

The petitioner is the Pradhan of Chandpur Gram Panchayat, Murshidabad and seeks cancellation of a Notice dated 10th December, 2021 issued by the Prescribed Authority for removal of the petitioner as a Pradhan in a meeting scheduled to be held on 22nd December, 2021.

According to learned counsel appearing for the petitioner, the Notice for holding the meeting for removal of the petitioner should be cancelled on the ground of non-compliance with the last requirement stated in Section 12(2) of the West Bengal Panchayat Act, 1973.

Learned counsel appearing for the Prescribed Authority opposes the prayer sought for and submits that there has been no violation or non-compliance of any of the six conditions under 12(2) of the 1973 Act.

The argument on behalf of the petitioner proceeds on the basis of that although one copy of the Motion under Section 12(1) has been delivered to the petitioner by either of the modes under 12(2) at the Gram Panchayat office, the copy of the Motion has not been delivered at the residential address of the petitioner. From the conditions outlined in 12(2) it appears that while the fifth condition is for the copy of the Motion to be delivered “to the concerned office bearers (the petitioners herein)” either by hand or registered post at the Gram Panchayat office, the last condition omits the word “delivered” by substituting it with the word “sent” at the residential address of the concerned officer bearers.

In the present case, postal endorsement has been handed up to the Court which shows that the Motion was sent to the residential address of the petitioner on 7th December, 2021. Although the particulars of the address is not fully legible from the endorsement, the Pin Code tallies with that mentioned in the cause-title of the writ petition.

The second point with regard to the Prescribed Authority being satisfied with the conditions under 12(2) being fulfilled before issuing the Notice within the prescribed time period under 12(3), does not appear from 12(2) of the Act. Under 12(2), the Motion in the form as required under the Sub-section must be delivered or sent by registered post to the Prescribed Authority. It is only upon receiving the Motion, that the Prescribed Authority shall satisfy himself that it confirms the requirements of 12(2).

In the present case, the Prescribed Authority received the Motion on 6th December, 2021 and was under a statutory obligation to issue a Notice for convening the meeting within five working days from the date of receipt of the Motion. The Notice of meeting in this case was issued on 10th December, 2021 calling for the meeting to be held on 22nd December, 2021. Hence, there does not appear to be any failure of compliance of the conditions under either 12(2) or 12(3) of the Act.

Gopal Kumar Vs. State of West Bengal, 2015 (1) CHN (Cal) 445, has been cited as an authority for the mandatory requirement of the six conditions to be fulfilled under 12(2) of the Act. The decision cannot give any assistance in the present case. All

the conditions have been fulfilled for issuing the Notice of meeting by the Prescribed Authority.

In any event, the petitioner has admittedly received the Notice under the first limb of the requirements under 12(2). As a matter of abundant caution, however, the respondent nos. 7 to 14 are directed to send a copy of the Motion to the residential address of the petitioner by registered post in the course of the day.

This Court hence finds no reason to cancel the Notice dated 10th December, 2021.

WPA 20538 of 2021 is accordingly dismissed without any order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings.

(Moushumi Bhattacharya, J.)