

24.12.2021
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Sl. No. 06
Ct. No. 05

WPA 20653 of 2021

Shefali Roy
Vs.
The State of West Bengal & Ors.

[Via Video Conference]

Mr. Kamalesh Bhattacharya
Mr. Mohinoor Rahaman
Mr. Shahan Sha
Ms. Maria Rahaman
..... for the petitioner

Mr. Santanu Kumar Mitra
Mr. Subhabrata Das
.... for the State
Ms. Susmita Saha Dutta
Mr. Niladri Saha
..... for the respondent Nos. 6 to 13

The petitioner seeks cancellation of a notice dated 14th December, 2021 being a notice by some of the respondent to remove the petitioner as the Pradhan of the concerned Gram Panchayat. The ground for seeking cancellation of the said requisition is that the notice contains allegations which are of a stigmatic nature. Learned counsel appearing for the petitioner relies on a Division Bench Judgment of this Court in *Ujjal Mondal vs. State of West Bengal*, (2013)1 CHN (CAL) 458; and a decision of a Co-ordinate Bench of this Court in WPA 13099 of 2021 (*Mukti Halder vs. The State of West Bengal*),

in support of the contention that a notice for requisition for removal can be set aside on the ground of notice containing allegations which are stigmatic in nature.

Learned counsel appearing for the State relies on a Division Bench Judgment of this Court in *Ujjwal Kumar Singha vs. State of West Bengal*, (2017) 2 CHN (CAL) 258 as well as a second Division Bench Judgment passed in MAT 551 of 2015; *Manju Chowdhury & Ors. vs. Salil Mishra & Ors.*. According to learned counsel, the notice for removal cannot be set aside only on the ground of stigmatic allegations.

The point which is under consideration is whether a motion of no confidence for removal of Pradhan or Upa-Pradhan under Section 12 of the West Bengal Panchayat Act, 1973 can be set aside on the ground of stigmatic allegations contained in the said motion. In the present case, the allegations which would appear from the motion dated 8th December, 2021 is that the Pradhan carries out her work in an autocratic fashion and does not co-operate with the requisitionists in any manner. The notice is in the vernacular and the Court has translated the words used in the notice. In *Ujjal Mondal*, the

allegations against the Sahakari Sabhapati of the Panchayat Samity related to allegations in relation to criminal proceedings involving moral turpitude. The Division Bench held that the requisition notice should be set aside on the ground of the “civil consequences or evil consequences” to the concerned office bearers and the prejudice which would result in his political career. In *Ujjwal Kumar Singha vs. State of West Bengal* (2017)2 CHN CAL 258, the Division Bench considered the importance of an institution running on democratic principles.

This Court is of the view that Section 12(2) lays down the procedure for removal of the Pradhan and the qualification of the requisitionists who seek such removal. The language of Section 12(2), is “..... shall sign a motion in writing expressing their lack of confidence against the Pradhan..... or recording their intention to remove the Pradhan.....”. The words expressing lack of confidence involves articulation of the loss of trust and confidence in the Pradhan. The issue of stigma is a question of degree. The words used in the notice must be of such a nature as to cause immediate or future prejudice to the person who is sought to be

removed. The allegations must be personal, vicious or with an intention to destroy the reputation of the Pradhan. This Court draws support from the decision in *Pratap Chandra Mehta vs. State Bar Council of Madhya Pradesh & Ors.*; 2011(9) SCC 573 which drew a distinction between a “no confidence motion” and a removal as a result of a disciplinary action. The Supreme Court qualified that a no-confidence motion cannot be equated in law to a removal for a disciplinary action or a censure and that both the concepts cannot be used interchangeably.

In the present case, the allegations are that the Pradhan is working in an autocratic fashion and does not co-operate with the work of the requisitionists. These two allegations cannot amount to any kind of stigma. The words used are not such as would result in either a loss of reputation or cause damage to the future career prospects of the petitioner.

Although reliance has been placed by the learned counsel appearing for the petitioner on *Mukti Halder*, the allegations therein were more serious and the Court relied on *Ujjal Mondal* to hold that the allegations in the said notice were

stigmatic in nature. As stated above, the standards for assessing the nature of allegations is a question of degree and would therefore depend on the particular allegations which are brought before a Court. Needless to say the function of a Gram Panchayat is based on democratic principles and a disgruntled group of requisitionists are entitled to bring a motion of no-confidence against a Pradhan provided the conditions under Section 12(2) of the Act are satisfied and the allegations in the notice are not such as would cause damage to the reputation of the Pradhan.

Being unable to find allegations of such nature in the present writ petition, WPA 20653 of 2021 is dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)