

05.08.2021
Sl. No.2(Jalpaiguri)
srm

W.P.A. No. 1129 of 2021

**Abual Ajad
Vs.
The State of West Bengal & Ors.**

Mr. Nilanjan Bhattacharjee,
Mr. Sayan De,
Mr. Arpan Guha,
Mr. Kaustuv Shoke,
Mr. Sayan Kanjilal

...for the Petitioner.

Md. Sarwar Jahan,
Mr. Feroze Hassan,
Mr. Debanshu Ghorai

...for the Respondent Nos.4 to 9.

Mr. Jaharlal De,
Mr. Shamim ul Bari

...for the State.

The petitioner is the Pradhan of Gitaldaha-I Gram Panchayat, District- Coochbehar. The petitioner has challenged the requisition notice brought by the respondent Nos.4 to 9 as also the notice dated July 26, 2021 by which the prescribed authority called for a meeting on August 9, 2021 for removal of the Pradhan on the basis of the requisition.

The first contention of Mr. Bhattacharjee, learned Advocate appearing on behalf of the petitioner, is that the requisition was not served upon the petitioner as per the provisions of Section 12(2) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the said Act). The next contention of Mr. Bhattacharjee is that the notice of the

meeting dated July 26, 2021 was vague in decisive and ambiguous. Thus, the said notice could not be sustained in the eye of law.

Mr. Jaharlal De, learned Advocate appearing on behalf of the State-respondents, submits that the prescribed authority satisfied himself as per the provisions of Section 12(3) of the said Act, that the requisitionists had complied with the provisions of Section 12(2) of the said Act. The prescribed authority through his learned Advocate has submitted before this Court that the notice of requisition was served in the office of the Gram Panchayat and was received by the Executive Assistant. The Executive Assistant of the said Gram Panchayat is the staff of the Pradhan who received the notice on behalf of the Pradhan. The postal receipts produced also show that the requisition was sent to the address of the Pradhan by speed post. The receipts have been sent to the learned Advocate for the State by the prescribed authority through digital platform.

Mr. Jahan, learned Advocate appearing on behalf of the requisitionists, the respondent Nos.4 to 9, also files a photocopy of the receipt showing the acceptance of the notice by the subordinate staff of the Pradhan and the office of the Gram Panchayat. Let such receipt be taken on record.

Thus, the first contention of the petitioner that the notice of motion was not served upon the petitioner is not accepted, on the basis of the submissions recorded herein above.

The next contention of the petitioner that the notice dated July 26, 2021 is not in the form cannot be accepted by this Court as the said notice has been issued in the prescribed Form 1E of sub-rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975.

The notice clearly indicates that the motion is for the removal of the Pradhan on the ground of lack of confidence. The institution runs on the principles of democracy. The elected leader of the Gram Panchayat can continue to perform as a leader only till he enjoys the confidence of his members. The law permits the members to remove their leader if they have lost confidence in him. In this case, six out of ten members have brought the requisition. The competence or ability of the Pradhan to continue in office will be decided in the floor test but the rights of the requisitionists under the law cannot be curtailed unless there is serious infraction of the statutory provisions.

Moreover, the Pradhan was aware of the requisition as also the notice of removal from the very beginning. The pleadings in paragraph 3 of page 5 of the writ petition, clarify the position that the requisition was served in the office of the

Gram Panchayat. Once the Pradhan is aware of the requisition and the intention of his members to remove him in accordance with law, nothing further remains to be decided in the writ petition as the prescribed authority empowered under the law has satisfied himself that the legal provisions have been followed.

This writ petition is, thus, disposed of.

There will be, however, no order as to costs.

All parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)