

Sl. 8
11.04.2022.
Court no. 19
mb

W.P.A. No. 6210 of 2022

Nariya Bibi & Ors.

-vs.-

The State of West Bengal & Ors.

Mr. Taimur Hossain,
Mr. Ziaul Haque,
...for the petitioner

Mr. Jaharlal De,
Mr. Shamim Ul Bari
...for the State

The petitioner is the Pradhan of Raninagar Gram Panchayat. The petitioner is aggrieved by the requisition brought by 19 out of 21 members of the concerned Gram Panchayat. The requisition is dated March 31, 2022. The petitioner is further aggrieved by the notice issued under Form 1E, under sub-rule (2) of Rule 5 of the West Bengal Panchayat (Constitution) Rules, 1975, by which the date for holding the meeting for removal of the Pradhan, has been fixed on April 12, 2022.

It is submitted that the requisition should not have been acted upon as the same was not addressed to the prescribed authority. It is next submitted that the prescribed authority issued the notice convening the meeting on the very next date of receipt of the

requisition without satisfying himself about the compliance of the provisions of Section 12(2) of the West Bengal Panchayat Act 1973 (hereinafter referred to as “the said Act”), with regard to the signatures of the requisitionists. That some of the signatures of the requisitionists were not genuine. That the notice under Form 1E, did not mention the agenda.

The instructions prepared and signed by the prescribed authority, who is the Block Development Officer, Raghunathganj-1 Development Block are filed in court. It appears that 19 out of 21 members of the said Gram Panchayat appeared physically before the prescribed authority and submitted the motion. Upon receiving the said motion, the prescribed authority along with another official, personally verified the signatures and obtained the views of the requisitionists. The notice under Form 1E was issued upon verification of the signatures of each and every requisitionist. A scanned copy of the receipt of the requisition has been submitted before this Court. It appears that the Block Development Officer, Raghunathganj-1 Development Block, that is, the prescribed authority, himself, received the requisition under his signature and seal. Digital photographs have been filed before this Court to show the presence of each and every requisitionist before the Block Development Officer and another official for

verification of their signatures. The copies of the instructions and the photographs are taken on record.

Under such circumstances, this Court does not find any reason to interfere with the proceedings which have been initiated for the following reasons:-

- (a) Addressing the motion to the Block Development Officer, Ragunathganj-1 Development Block, does not vitiate the requisition, as admittedly the prescribed authority is the said Block Development Officer. This is a hyper technical plea and the motion is not vitiated only because the motion mentioned the Block Development Officer and not the "Prescribed Authority".
- (b) The agenda cited in the notice of the meeting for removal has been recorded thus:- "As stated above". In the body of the notice, the fact that the meeting had been convened for consideration of the motion for removal of the Pradhan for lack of confidence has been mentioned. Such hyper- technical approach is not necessary, as the notice amply indicates the reason for convening such meeting.
- (c) None of the requisitionists are before this Court alleging that their signatures had been forged. On the contrary, records have

been filed by the Block Development Officer/Prescribed Authority, from which it appears that each of the 19 requisitionists appeared before the prescribed authority for signature verification. Photographs have also been filed before this Court.

In my opinion, the provision for removing an elected representative such as Pradhan is of fundamental importance to ensure the democratic functioning of the institution as well as to ensure the transparency and accountability in the functions performed by the elected representatives. These institutions must run on democratic principles. In democracy, all persons heading public bodies can continue provided they enjoy the confidence of the persons who comprise such bodies. This is the essence of democratic republicanism. If the Pradhan has lost support of the majority of the members, he cannot remain in office for a single day.

Judicial review of administrative action is permissible only on the grounds of jurisdictional error, procedural impropriety, procedural irregularity and irrationality. In this case, this court does not find that the motion dated March 31, 2022 and the procedure adopted by the prescribed authority calling the meeting for

removal of the Pradhan on the basis of the requisition dated March 31, 2022, suffer from any of the defects mentioned hereinabove and as such the court declines to interfere either with the said motion or with the notice dated April 1, 2022. This Court does not find any illegality either in the procedure followed by the Block Development Officer while acting in terms of Section 12(3) and (4) of the said Act, or in the requisition.

This writ petition is disposed of without any order as costs. The meeting will be held as per schedule.

All parties are directed to act on the basis of the learned Advocate's communication.

(Shampa Sarkar, J.)