

25.01.2022
Item No. 24
Court No.6.
S. De

Through Video Conference

**M.A.T. 654 of 2021
I.A. No. CAN 1 of 2021**

**Mainul Islam.
Vs
The State of West Bengal & Others.**

Mr. Partha Sarathi Bhattacharyya, Ld. Sr. Adv.,
Mr. Tanweer J. Mandal, Advocate,
Ms. Somashree Dey, Advocate,
Mr. Raju Bhattacharyya, Advocate,
...for the appellant.

Mr. Lalit Mohan Mahata, Advocate,
...for the respondent no.1.

Mr. Rajat Dutta, Advocate,
...for the respondent.

Mr. Pantu Deb Roy, Advocate,
Mr. Pannalal Bandyopadhyay, Advocate,
...for the State.

The only grievance with which the writ petitioner/Pradhan approached the learned Single Judge was that the process of her removal was in violation of Section 12(10) of the West Bengal Panchayat Act, 1973, which reads as follows:

“12. Motion of no confidence or removal of Pradhan or Upa-Pradhan. –

.....

(10) On receipt of the minutes of the meeting and the report under subsection (9), the prescribed authority shall, within next five working days,

take such action as he may deem fit and the entire process commencing from submission of motion to the prescribed authority upto the action finally taken by him shall be completed within thirty days.”

The learned Single Judge dismissed the writ petition holding that the prescribed authority, for reasons beyond his control, fixed the meeting for removal of the Pradhan on 5th July, 2021. There was no illegality in the impugned action.

Before us, Mr. Partha Sarathi Bhattacharyya, learned senior advocate, contends that the learned Single Judge has failed to take into consideration Section 12(10) of the said Act. Since the process of removal of the relevant Pradhan was not completed within thirty days from the submission of motion, the learned Single Judge ought to have held that the process of removal was vitiated.

The relevant dates are as follows:

On May 10, 2021, the notice of motion for removal of the Pradhan was signed by the requisitionists. Upon receipt of the said notice of motion by the prescribed authority, the prescribed authority issued a notice dated May 18, 2021, observing as follows:-

*“Notice is hereby given that the
meeting for removal of Pradhan*

of Faridpur Gram Panchayat is hereby postponed until further instruction from competent authority in view of the present Covid 19 situation and in pursuance of the Order No.647-ISS/2m-22/2020 dated 15.05.2021 of the Chief Secretary of the GOWB.

The date of the said meeting to be communicated later on.”

It further appears that the restrictions imposed by the said notification no. 647-ISS/2m-22/2020 dated 15.05.2021 were further extended by the Government by a second notification dated June 14, 2021 till 30th June, 2021.

The competent authority thereafter by a notice dated June 21, 2021, fixed the meeting for removal of the Pradhan on July 5, 2021, and in the said meeting the motion was carried through. Accordingly, the prescribed authority removed the Pradhan.

We are of the opinion that there has been no violation of the statutory provisions in removing the Pradhan. Section 12(4) of the said Act authorises the competent authority to cancel or adjourn the meeting, *inter alia*, for reasons beyond the control of the

prescribed authority. Section 12(4) of the said Act is quoted below:

“12. Motion of no confidence or removal of Pradhan or Upa-Pradhan. –

.....

(4) The meeting referred to in sub-section (3) shall be held on a working day which shall not be later than fifteen working days from the date of receipt of the motion by the prescribed authority and the meeting so convened shall not be adjourned or cancelled except in pursuance of an order or direction of a competent court or for any other reason beyond control of the prescribed authority.”

There is no scope to read Section 12(10) in isolation from Section 12(4). In our view the time limit as indicated in Section 12(10) is controlled by the operation of Section 12(4). In other words, the time limit prescribed under Section 12(10) gets extended by virtue of Section 12(4), if there is an order or direction of a competent court or for any other reason beyond the control of the prescribed authority.

It appears that the meeting was fixed by the prescribed authority on July 5, 2021, due to the restrictions imposed by the State in view of the Covid-19 pandemic situation. We are satisfied that the meeting was adjourned for “reasons beyond control” within the meaning of Section 12(4) of the West Bengal Panchayat Act, 1973.

In that view of the matter, it cannot be said that the meeting for removal of the Pradhan was held in violation of Section 12(10) of the West Bengal Panchayat Act, 1973.

We do not see any infirmity in the order of the learned Single Judge.

Accordingly, MAT 654 of 2021 is dismissed along with I.A. No. CAN 1 of 2021.

Urgent certified photostat copy of this order, if applied for, shall be given to the parties as expeditiously as possible on compliance with all the necessary formalities.

(Kausik Chanda, J.)

(Arijit Banerjee, J.)