

WPA 11001 of 2022

Monika Dolui & Ors.
Vs
The State of West Bengal & Ors.

Mr. Sarwar Jahan
Mr. Anisur Rahaman
Ms. Priya Ghosal
.....for the petitioners

Mr. Lalit Mohan Mahata
Mr. Rudranil De

.....for the State
Mr. Raja Saha
Ms. Aripa Saha
Mr. Sanjay Mukherjee
.....for the respondent Nos. 7,8 & 9

The matter relates to Jhautia Gram Panchayat. There are 11 members out of whom 7 are the petitioners herein. The 7 petitioners filed a requisition before the concerned authority praying for removal of the Prodhan.

The date for the notice of meeting on motion for removal of the Prodhan was fixed on 10th June, 2022 at 12.00 noon. Prior to the said date 3 of the aforesaid 7 members were removed by the Prescribed Authority and the Sub-Divisional Officer by order dated 6th June, 2022. The Prescribed Authority and the Block Development Officer by a communication dated 7th June, 2022 intimated the aforesaid 3 members who were removed from their membership that they were debarred from

being present in the meeting on omission for removal of Prodhan to be held on 10th June, 2022.

The aforesaid 3 members of the Gram Panchayat filed a writ petition before this Court challenging their removal by filing writ petition being WPA 9874 of 2022 (Monika Dolui & Ors. vs. The State of West Bengal & Ors.). The Court vide order dated 10th June, 2022 was pleased to set aside the order dated 6th June, 2022 passed by the Prescribed Authority and the Sub-Divisional Officer. The Prescribed Authority was directed to reconsider the prayer of the petitioners for permitting them to deal with the documents which were supplied to them and to decide the matter afresh on merits. The Prescribed Authority was further directed to pass a reasoned order and to communicate the same to the petitioners.

On account of the revival of their membership, the petitioners submit that they are in a position to bring a fresh requisition notice once again. The time to conclude the proceeding pursuant to the earlier requisition meeting has already expired.

The petitioners apprehend that the Prescribed Authority may not permit the petitioners to file a fresh requisition notice by invoking the bar under Section 12(11) of the West Bengal Panchayat Act, 1973.

It is the specific contention of the petitioners that they were unable to remain present in the meeting

scheduled on 10th June, 2022 not because of any omission or commission on their part. It is because of their removal from the membership that they were unable to participate in the meeting.

The petitioners rely upon the judgments delivered by this Court in the matter of *Sk. Alhamdo vs. The State of West Bengal & Ors.*, reported in 2000(2) CalLJ 3, paragraph 12 and *Md. Ali Reza – vs. State of West Bengal*, reported in 2012 (3) CalLJ 36, paragraph 10.

Learned advocate representing the Prodhan submits that the bar will be very much attracted in the present case as the meeting failed due to want of quorum.

Learned advocate representing the Prescribed Authority submits that prior to the meeting fixed on 10th June, 2022 none of the members of the Gram Panchayat intimated the Prescribed Authority about the proceeding which was pending before this Court and none of the members requested the Prescribed Authority to adjourn the meeting.

It has further been submitted that although the Prescribed Authority and the Presiding Officer were present at the meeting but none of the members of the Gram Panchayat turned up.

It appears from the submissions made on behalf of the parties that admittedly the meeting could not proceed as none of the members turned up in the meeting.

The Court in the matter of Md. Ali Reza held that in the absence of any meeting there was no embargo and/or fetter on the part of the Prescribed Authority to call for a meeting for removal of the Prodhan to be held in terms of the requisition notices issued by the petitioners.

In Sk. Alhamdo the Court was of the opinion that it cannot be a position of law that whenever there is no meeting on the date fixed by the requisitionists themselves, there cannot be any further meeting for the self-same purpose. If the requisitioned meeting was not held because of any commission and omission on the part of the requisitionists, then it should not be treated as not held as per the provision of the Act. The Court was of the opinion that it would not be necessary to make a fresh requisition in writing to the Prodhan to convene such meeting.

Admittedly, the time frame within which the meeting ought to have been concluded has expired. All the requisitionists could not be present at the time of the meeting in view of the removal of three of them out of the seven requisitionists.

The removal of the three requisitionists was later on set aside by the Court. That being the position, as on date, the requisitionists are qualified to take out a fresh requisition, if they have actually lost confidence on the Prodhan.

The Court has been made aware of the fact that the requisitionists did not bring any fresh requisition as on date.

The members of the Panchayat will be open to take steps strictly in accordance with the provision of the West Bengal Panchayat Act, 1973.

It goes without saying that the Prescribed Authority will also act in accordance with the provision of law.

No further order is required to be passed in the writ petition.

Affidavit of service filed in Court today be taken on record.

The writ petition is disposed of.

Urgent Xerox certified copy of this order, if applied for, be supplied to the parties, subject to compliance with all requisite formalities.

(Amrita Sinha, J)