

D/L
Item No. 12
15.07.2022
KOLE

**MAT 992 of 2022
With
IA No. CAN 1 of 2022**

**Pravati Murmu & Anr.
-Vs.-
Sabina Hasda & Ors.**

*Mr. Chittaranjan Chakraborty,
Mr. Dip Jyoti Chakraborty,
Mr. S. Banerjee*

...for the appellants.

*Mr. Suman Sengupta, Ld. AGP,
Mr. S. Chatterjee,*

...for the State.

*Mr. Sarwar Jahan,
Mr. A. B. Mahata,
Mr. A. B. Mahata,
Mr. M. I. Kayal,*

...for the respondent no. 1.

By consent of the parties the appeal and the application are taken up for hearing together.

A judgment and order dated June 23, 2022, whereby WPA 11404 of 2022 was disposed of, is the subject matter of challenge in this appeal.

Requisite number of members of the concerned Gram Panchayat had brought a requisition on May 30, 2022, for removal of the Pradhan. The Prescribed Authority by a notice dated June 3, 2022 fixed June 17, 2022 as the date for the meeting to be held. By a communication dated June 16, 2022, the Prescribed Authority postponed the meeting on the ground of non-availability of adequate police personnel. Immediately thereafter, being aggrieved by such postponement the requisitionists moved the learned Single

Judge. The learned Single Judge disposed of the writ petition by the order under challenge in this appeal, the operative portion whereof reads as follows:-

“Accordingly, the Prescribed Authority is directed to conclude the meeting which stood postponed, within June 29, 2022.

If the Prescribed Authority is unable to arrange for enough police personnel on the date of the rescheduled meeting, then the Prescribed Authority shall seek police help from the Superintendent of Police, Malda for providing necessary police assistance at the time of the meeting.

The Superintendent of Police will act on a request from the Prescribed Authority and provide the necessary police personnel required at the time of holding the meeting for removal”

Being aggrieved, the Pradhan has come up in appeal before us.

The meeting was held on June 29, 2022. The Prescribed Authority passed his order dated July 4, 2022 recording the removal of the Pradhan.

Learned Advocate for the appellant says that the entire process was not completed within 30 days from the date of receipt of the requisition by the Prescribed Authority as mandated by Section 12 (10) of the West Bengal Panchayat Act, 1973. Hence, the meeting is bad. He relies on a Supreme Court decision in the case of **Ravi Yashwant Bhoir-vs.-The Collector, District Raigad & Ors.**, reported in **(2012) 4 SCC 407**, in support of the proposition that a democratically elected office bearer cannot be removed unceremoniously without following the provisions of law.

Section 12 (10) is to be read in conjunction with Section 12(4) of the West Bengal Panchyat Act. Sub-section 4 and Sub-section 10 of Section 12 read as under:-

“(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 of direction of a competent court or for any other reason beyond control of the prescribed authority.

(10) On receipt of the minutes of the meeting and the report under sub-section (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.”

Sub-section 4 contemplates a situation where the meeting called by the Prescribed Authority has to be adjourned in pursuance of an order or direction of a Competent Court or for any other reason beyond the control of the Prescribed Authority. In the present case, the Prescribed Authority postponed the meeting because of non-availability of adequate police personnel. To ensure that there is no law and order problem, the meeting was postponed. This is a situation contemplated in Section 12(4) of the West Bengal Panchayat Act, 1973. In our view, if a meeting is adjourned for reasons beyond the control of the Prescribed Authority, the time period of 30 days prescribed in sub-Section 10 of Section 12 also stand extended correspondingly. In the present case, the meeting was held on June 29, 2022 which was within 30 days of the receipt of requisition by the Prescribed Authority. We disagree with the submission made on behalf of the appellant that the

meeting was held beyond 30 days as, in our view, the date of receipt of the requisition of the Prescribed Authority has to be excluded in computing the 30 days period. In our view, there is no material irregularity in the process followed by the Prescribed Authority. The Pradhan/appellant has lost the support of the majority. It is a democratic process. She should accept the decision of the majority.

There is no infirmity in the order under appeal. The appeal and the connected application are dismissed without, however, any order as to costs.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Rai Chattopadhyay, J.) (Arijit Banerjee, J.)