

D/L
Item No. 7
15.06.2022
KOLE

MAT 961 of 2021
With
IA No. CAN 1 of 2021
With
IA No. CAN 2 of 2021

Shanicharan Singmura
-Vs.-
The State of West Bengal & Ors.

Mr. P. S. Bhattacharyya,
Mr. S. P. Lahiri,
Ms. D. Ghosh

...for the appellant.

Mr. Lalit Mohan Mahata, Addl. Govt. Pleader,
Mr. R. Saha,
Mr. S. Dhar,
Mr. R. Chakraborty

...for the State.

Mr. Saibal Kumar Acharya,
Mr. S. B. Mykherjee

...for the respondent nos. 6, 7 to 12.

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

The appellant was the Pradhan of Begunkodar Gram Panchayat. He approached the learned Single Judge challenging a requisition dated August 10, 2021, for his removal as Pradhan as also notice issued by the Prescribed Authority dated August 10, 2021, convening a meeting on August 24, 2021.

Initially a requisition was made on May 7, 2021 for removal of the writ petitioner as Pradhan of the said Panchayat. However, due to restrictions imposed by the Government because of Covid-19 conditions, the said

requisition was not acted upon. The Learned Judge noted that thereafter a requisition was made for removal of the Pradhan on August 3, 2021. Then again on August 10, 2021, another requisition was made by the same members of the Panchayat for the same purpose. The learned Judge was of the view that without cancelling the requisition dated August 3, 2021, the Prescribed Authority could not have acted on the basis of the requisition dated August 10, 2021. The learned Judge set aside all the three requisitions dated May 7, 2021, August 3, 2021 and August 10, 2021 and also directed that the meeting scheduled to be held on August 24, 2021, shall not be held. However, the learned Judge granted liberty to the requisitionists to bring a fresh requisition in terms of Section 12(2) of the West Bengal Panchayat Act. The Learned Judge directed the Prescribed Authority, if fresh requisition was brought, to satisfy himself about compliance of Section 12(2) of the 1973 Act and then proceed in terms of Sections 12(3) and 12(4) to reach the requisition to its logical conclusion within the statutorily prescribed time period. The learned Judge then went ahead and observed that the bar under Section 12(11) of the 1973 Act shall not be applicable. The writ petitioner is aggrieved by this observation in the order under appeal and hence he is before us.

We have heard learned Counsel for the parties. We see no reason for the writ petitioner to be aggrieved by the observation mentioned above. Section 12(11) of the 1973 Act is attracted, when there is actually a meeting where the

motion fails or the meeting cannot be proceeded with for want of quorum. In the present case, there was no meeting at all. Hence, the bar under Section 12(11) of the Act would not be attracted in any event. The observation of the learned Single Judge that the bar under Section 12(11) will not be attracted was superfluous and was not necessary. It merely clarified the position in law. We do not see how the said observation prejudiced the appellant.

We do not find any reason to interfere with the order under appeal. Just to put on record, the appellant at a subsequently requisitioned meeting has been removed as Pradhan of the said Panchayat and a fresh Pradhan has been elected, who has taken charge.

For the reasons aforestated, the appeal and the connected application are dismissed. The application for extension of interim order is also disposed of.

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

(Arijit Banerjee, J.)

(Rai Chattopadhyay, J.)