

Sl. No.8
23.08.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 15620 of 2022

Laxmi Das Ghosh
Versus
The State of West Bengal & Ors.

Mr. Gouranga Kumar Das
...for the Petitioner.

Mr. Palash Chandra Podder
... for the private respondent nos.8 to 14

Mr. Raja Saha
Mr. Bibekananda Tripathi
... for the State.

Learned advocate representing the respondent nos.8 to 14 has filed his Vakalatnama in the department being filing No.A-13163 & A-13167 dated 18.07.2022.

The department is directed to tag the Vakalatnama with the records of the present case.

The petitioner, being the erstwhile Pradhan, is aggrieved by the act of the prescribed authority and the Block Development Officer in issuing notice of meeting for removal of Pradhan. According to the petitioner a previous motion was moved for removal of the Pradhan. The same was acted upon and the Pradhan stood removed.

The process was challenged before this Court by the petitioner who was the Pradhan and was removed. The Hon'ble Division Bench by an order dated 20th May, 2022

passed in MAT 609 of 2021, IA No.: CAN 1 of 2021 (Lakshmi Das Ghosh vs. State of West Bengal & Ors.) was pleased to set aside the notice of requisition and held it to be bad in law as the requisitionists did not mention their political affiliation or their independent status in the notice of requisition. The Court declared that all actions taken pursuant to the notice are bad in law and accordingly set aside.

The Court was, however, pleased to direct that setting aside of previous proceeding for removal of Pradhan will not prevent the requisitionists or other members of the concerned Panchayat from issuing fresh notice requisitioning fresh meeting for removal of the Pradhan, in accordance with law.

Pursuant to the leave granted by the Hon'ble Division Bench, fresh requisition notice was served by the members by disclosing their political affiliation. The prescribed authority being satisfied with the motion fixed a date for conducting meeting for removal of the Pradhan.

The petitioner submits that the provision of Section 12(11) of the West Bengal Panchayat Act, 1973 will stand as a bar as no notice of subsequent motion for removal of the Pradhan could be made within a period of one year from the date appointed for such meeting.

It has been submitted that one year is yet to elapse from the date of the previous meeting and accordingly, the subsequent meeting is bad in law.

Submission of the petitioner has been opposed by the learned advocates representing the respondents.

It has been submitted that requisitionists and the prescribed authority acted in accordance with the leave granted by the Hon'ble Division Bench.

Provision of Section 12(11) of the West Bengal Panchayat Act, 1973 read as follows:-

“If the motion is not carried by the majority of its existing members or the meeting cannot be held for want of quorum, no notice of any subsequent motion for the removal of the some office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.”

In the present case, the previous motion which was brought by the requisitionists was carried through and the Pradhan was removed, but the entire proceeding was set aside by the Hon'ble Division Bench of this Court.

It is not a case where the motion could not be carried through for want of majority of its existing members or for want of quorum.

The Court permitted the requisitionists to bring in fresh requisition in accordance with law.

I am of the opinion that the members acted in accordance with the leave granted by the Hon'ble Division Bench. The prescribed authority being satisfied with the requisition notice, issued subsequent notice for conducting meeting for removal of the Pradhan.

It has been submitted by the learned advocate representing the prescribed authority that new Pradhan has already been elected in the meantime.

There does not appear any apparent error on the part of the respondents.

In view of the above, there is no requirement of interfering with the present writ petition.

The writ petition fails and is hereby dismissed.

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

(Amrita Sinha, J.)