

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

The Hon'ble **JUSTICE SUVRA GHOSH**

WPA 9304 of 2026

Nabanita Mandal @ Nabeneeta Mandal

v/s.

The State of West Bengal & Ors.

For the Petitioner:	Adv. Mrityunjoy Chatterjee. Adv. Manas Das, Adv. Suchismita Chakraborty, Adv. Premraj Sharma,
For the Respondent Nos. 3 & 4:	Adv. Swapan Banerjee, Adv. Diptendu Narayan Banerjee,
For the Respondent Nos. 6 to 14:	Adv. Gangadhar Das, Adv. Tanmoy Chattopadhyay,
For the Respondent Nos. 1 & 2:	Adv. Lalit Mohan Mahata, Adv. Ziaul Haque
Hearing concluded on:	17.04.2026
Judgment delivered on:	22.04.2026

SUVRA GHOSH, J. :-

1. The writ petitioner has been elected as Pradhan of Mahishbathani Gram Panchayat on 10th August, 2023. A “no confidence motion” for her removal was initiated by the private respondents on 16th February, 2026 which was received by the Block Development Officer/prescribed authority, being the 4th respondent herein, on 19th February, 2026. The 4th respondent did not proceed with the motion in terms of Section 12 of

the West Bengal Gram Panchayat Act, 1973 for which the private respondents approached this Court in a writ petition being WPA 5149 of 2026. By an order passed on 6th March, 2026, this Court directed the 4th respondent herein to take necessary steps in terms of the provision laid down under Section 12 of the Act within ten days positively, in accordance with law. The said authority was also directed to take necessary steps for deployment of sufficient number of police personnel at the time of the meeting, so that the meeting was held peacefully and law and order was maintained. The said order was carried in appeal before an Hon'ble Division Bench of this Court by this petitioner. By an order passed on 17th March, 2026 in MAT 451 of 2026, the Hon'ble Division Bench set aside the order of this Court and granted liberty to the requisitionists to bring another motion in accordance with law. The prescribed authority was directed to comply with the provision of law without unnecessarily delaying the issue, for whatever reason. The private respondent moved a fresh motion before the 4th respondent on 18th March, 2026. The 4th respondent served notice of meeting to be held on 6th April, 2026. On 6th April, 2026 the notice was issued by the 4th respondent cancelling the meeting for that day since the inspector-in-charge, Malda Police Station was unable to provide police personnel for the meeting and the 4th respondent apprehended that the situation may go beyond control. However, notice of meeting was issued on 13th April, 2026 fixing the date of meeting as 18th April, 2026. The said notice is impugned in the present application.

2. Learned counsel for the petitioner has submitted that the second notice issued on 13th April, 2026 fixing the date of meeting on 18th April, 2026 is short of the clear seven days time before the meeting in terms of Section 12(3) of the Act. The date fixed for the meeting is also beyond the period of thirty days within which the final action is to be taken by the authority under Section 12(10) of the Act. The petitioner alleges violation of Section 12 of the Act and submits that the motion needs to be cancelled and the notice of the meeting set aside. Learned counsel has placed reliance on orders passed by a coordinate Bench of this Court in WPA 1010 of 2022 on 25th January, 2022 and WPA 17980 of 2021 on 17th November, 2021 in support of his contention.
3. Learned counsel for the private respondents/requisitionists has submitted that the first notice dated 27th March, 2026 was issued in terms of Section 12(3) of the Act. Since the meeting could not be held on 6th April, 2026 due to circumstances beyond control of the 4th respondent, the subsequent meeting was called on 18th April, 2026. The period of clear seven days of notice of the meeting is not mandatory. The motion was received by the prescribed authority on 20th March, 2026 and the subsequent meeting was called on 18th April, 2026. Therefore the entire procedure is in consonance with Section 12(10) of the Act.
4. Placing reliance on the judgment delivered by an Hon'ble Division Bench of this Court in MAT 468 in 2022 (Tanuja Begum Laskar v/s. State of West Bengal with MAT 486 of 2022 (Nimai Sardar and Others v/s. State of West Bengal and Others) delivered on 18th May, 2023 and an order passed by the Hon'ble Division Bench in MAT 992 of 2022 (Prabati

Murmu and Another v/s. Sabina Hasda and Others) on 15th July, 2022, learned counsel for the State has submitted that the seven days' notice as contemplated in Section 12(2) of the Act is not mandatory. The entire exercise has been done in terms of Section 12 of the Act and there has been no violation thereof.

5. I have considered the rival contention of the parties.
6. Section 12 of the West Bengal Panchayat Act, 1973 deals with procedure for removal of the Pradhan of the Panchayat by bringing "no confidence motion". It shall be useful to reproduce the said provision of law for better understanding of the issue.

"Section 12- Motion of no confidence or removal of Pradhan or Upa-Pradhan.- (1) Subject to other provisions of this section, the Pradhan or the Upa-Pradhan of a Gram Panchayat may, at any time, be removed from his office by the majority of the existing members of the Gram Panchayat, referred to in clause (i) of sub-section (2A) of section 4, expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their decision to remove the Pradhan or the Upa-Pradhan, at a meeting specially convened for the purpose.

(2) For the purpose of removal of the Pradhan or the Upa-Pradhan, one-third of the existing members referred to in sub-section (1) subject to a minimum of three members shall sign a motion in writing expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their intention to remove the Pradhan or the Upa-Pradhan, indicating party

affiliation or independent status of each of such members and either deliver the motion in person through any of the members or send it by registered post to the prescribed authority; one copy of the motion shall be delivered to the concerned office bearer either by hand or by registered post at the Gram Panchayat office and another copy shall be sent by registered post at his residential address.

(3) The prescribed authority on receipt of the motion shall satisfy himself that it conforms to the requirements of sub-section (2) and on his satisfaction shall specially convene, by issue of notice, within five working days of the receipt of the motion, a meeting of the Gram Panchayat to be held in its office fixing date and hour of the meeting and sending such notice at least before clear seven days to each of its existing members for consideration of the motion and for taking a decision on it.

(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.

(5) Such meeting shall be presided over by an officer, as may be authorized by the prescribed authority, in the manner as may be directed by order by the State Government or as may be

prescribed and the presiding officer before commencement of the meeting shall ensure that notice has been duly served to every member in the manner laid down in this behalf; quorum required for such meeting shall be more than fifty percent of the existing members referred to in sub-section (1) and the presiding officer shall not be entitled to vote at the meeting although he may advise on one or more points of law without expressing his own views.

(6) If there is no consensus decision in the meeting, voting shall be held by open ballot wherein each participating member shall put his full signature or his left thumb impression to be attested by the leader, referred to in section 213A, of the same political party to which the member belongs or by the said presiding officer on the reverse side of the ballot paper.

(7) The minutes of the meeting shall be written by the Secretary or in his absence, by any other official as authorized by the presiding officer. Such minutes shall record in brief names of the members present, the procedure followed, names of the members who voted for or against the motion and the decision adopted unanimously or by the majority of its existing members and shall be signed by him as well as by the presiding officer.

(8) After the minutes of the meeting is signed by the presiding officer, it shall be read over to all the attending members who shall thereafter put their signatures or left thumb impressions, as the case may be, on the minutes in confirmation of the

proceedings recorded. Then the presiding officer shall again put his signature on the same document after recording the names of members, if any, who have declined to sign or left earlier and thereafter he shall collect a copy of the minutes before leaving the premises.

(9)(a) The Executive Assistant or in his absence the Secretary of the Gram Panchayat shall, within three working days of the meeting, forward a copy of the minutes of the meeting to the prescribed authority.

(b) The presiding officer shall also submit a separate report in writing alongwith a copy of the minutes of the meeting within the aforesaid time to 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.”

7. In the case in hand, the no confidence motion was initiated by the private respondents on 18th March, 2026. The 4th respondent issued notice for convening the meeting on 27th March, 2026, fixing the date of meeting on 6th April, 2026. There is no dispute with regard to compliance of the relevant provision upto this stage. Therefore it can be inferred that the notice was issued within five working days of receipt of the motion and the motion was received by the 4th respondent on 22nd March, 2026, i.e.,

five days prior to issuance of the notice. The meeting could not be held on 6th April, 2026 due to non-availability of police personnel and apprehension of the 4th respondent that situation may go beyond control. Such a situation is contemplated in Section 12(4) of the Act, 1973 which deals with a situation beyond control of the prescribed authority. In view thereof and also as observed by the Hon'ble Division Bench in MAT 992 of 2022, if the meeting is adjourned for reasons beyond control of the prescribed authority, the time period of thirty days prescribed in Section 12(10) of the Act also stands extended correspondingly. However, in the present case, the meeting is scheduled to be held on 18th April, 2026, i.e., within a period of thirty days from the date of receipt of the motion by the prescribed authority.

8. With regard to the seven days' notice as contemplated in Section 12(3), the Hon'ble Division Bench has held that the seven days' notice is not a mandatory requirement under Section 12(3) of the Act. Though the word "shall" is used, that *per se* does not make the notice period mandatory. The consequences of a shorter notice are not mentioned in any of the sub-sections of Section 12. The statutory provisions in Section 12(3) is a procedural one and even the use of the word "shall" in such provision will not make it mandatory. It is nobody's case that the appellant did not receive any notice of the meeting at all. Therefore the notice issued on 13th April, 2026 fixing the date of meeting on 18th April, 2026 does not suffer any illegality.
9. True, in a subsequent order passed on 17th March, 2026 in MAT 451 of 2026 another Hon'ble Division Bench of this Court has observed contrary

to the earlier judgment. It is trite law that in case of conflict of decisions of two Benches of equal strength, the former will prevail unless the principle laid down in the former one has been overruled by a Superior Court or unless due to change of law, the former one is no longer applicable.

10. It is also pertinent to refer to the authority in *Aloke Pramanik v/s. State of West Bengal* reported in 1996 (1) CLJ 434 wherein the Hon'ble Supreme Court has stated that if a particular statutory provision is a procedural one, even the use of the word "shall" in such provision will not make it mandatory unless consequence of disobedience has been indicated in the statute.
11. In the words of the Hon'ble Supreme Court in *Ujwal Kumar Singha v/s. State of West Bengal* reported in 2017 SCC OnLine CAL 4636, "*the entire impugned judgment and order is supported with cogent reasons and there is no palpable infirmity noticed therein which would warrant any interference in an Intra-Court Mandamus Appeal. It appears that the appellant/writ petitioner resorted to taking shelter under the high prerogative jurisdiction of the High Court under Article 226 of the Constitution of India only for the purpose of thwarting the well-established democratic principles which govern the running of public institutions such as a Gram Panchayat, being at the lowest tier of self-governance at the village level in the three-tier Panchayati Raj System. In this context, one may take notice of the observations made by this Court in *Farida Bibi v. The State of West Bengal* reported in 2016 (5) CHN (CAL) 258, while following the observations made by the Supreme Court in *Usha Bharti v. State of U.P.* reported in (2014) 7 SCC 663: AIR 2014 SC 1686, wherein it*

was observed to the effect that it is the fundamental right of democracy that those who have been elected can also be removed by expressing, 'No Confidence Motion' for the elected person. In an institution which runs on democratic principles, a person can continue to be its head so long he/she enjoys the confidence of the persons who comprised such a body. This is the essence of democratic republicanism which was taken note of by the Supreme Court in Usha Bharti (supra)."

12. The petitioner/ Pradhan has lost confidence of the majority of the members of the concerned Panchayat. Since it is a democratic process, the petitioner has no alternative but to accept the decision of the prescribed authority. The notice issued on 13th April, 2026 and the date of meeting fixed on 18th April, 2026 do not suffer any infirmity and is in tune with the provision of Section 12 of the Act. The writ petition does not call for any interference by this Court.
13. Accordingly, the writ petition being WPA 9304 of 2026 is dismissed.
14. There shall however be no order as to costs.
15. Since no affidavit is invited, the allegations contained in the writ petition are deemed not to have been admitted.
16. Urgent certified website copies of this judgment, if applied for, be supplied to the parties expeditiously on compliance with the usual formalities.

(Suvra Ghosh, J)