

Ct. No.8 V/B 03.06.2026
 D/L
Saikat 07
& Aritra

MAT/934/2026
with
CAN/1/2026

KUDDUS ALI @ MD. KUDDUS ALI
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Gangadhar Das, Adv.
Mr. Debapriya Majumder, Adv.

...For the Appellant

Mr. D.N. Ray, G.P.
Mr. Guddu Singh, Adv.

...For the Respondent-State

Mr. Pradyat Saha, Adv.

...For the Respondent No.7

Mr. Sarwar Jahan, Adv.
Mr. Gourav Das, Adv.
Ms. Shalini Sen, Adv.
Ms. Sahina Parvin, Adv.

...For the Respondent Nos.8-18 & 20

1. Parties are represented through their respective learned advocates.
2. This intra-court appeal is at the instance of an unsuccessful writ petitioner and is directed against an order dated 26th May, 2026, passed by a learned Single Judge.
3. By the impugned order the writ petition stood dismissed.
4. A 'No Confidence Motion' dated May 18, 2026, at the instance of some of the private respondents was under challenge in the writ petition. The learned Single Judge refused to interfere with the said 'No Confidence Motion' by the impugned order.

5. The learned advocate appearing for the appellant draws the attention of this Court to the 'No Confidence Motion' dated 18th May, 2026, and submits that certain allegations have been levelled against the appellant which are stigmatic for which the opportunity of hearing ought to have been afforded to the appellant. The learned advocate refers to the provisions of section 213 of the West Bengal Panchayat Act, 1973, in support of his contention that the Prescribed Authority before passing an order to remove Pradhan, Upa-Pradhan, Sabhapati, Sahakari Sabhapati, Sabhadhipati and Sahakari Sabhadhipati has to give an opportunity to the person concerned to make a representation against the action proposed to be taken. In support of his contention that a 'No Confidence Motion' containing stigmatic allegations cannot be allowed to be proceeded with, the learned advocate refers to a judgment dated 3rd February, 2023, passed in ***Razia Sultana vs. The State of West Bengal & Ors.*** reported at ***AIR 2023 (CAL) 189***. He also places reliance upon the decision of the Hon'ble Division Bench in the case of ***Ujjal Mondal vs. State of West Bengal*** reported at ***2013 (1) CHN (CAL) 458*** for the same proposition.

6. The learned advocate appearing for the Respondent Nos.8 to 18 and 20 submits that the 'No Confidence Motion' in the case on hand did not contain any aspersion against the appellant. He, therefore,

submits that the appellant is not entitled to any opportunity of hearing in the instant case.

7. As to what would be a stigmatic order, the learned advocate places reliance upon a decision of the Hon'ble Supreme Court in the case of ***State of West Bengal and Others vs. Tapas Roy*** reported at ***(2006) 6 SCC 453***.
8. The learned Government Pleader submits that the No Confidence Motion was moved by the requisitionists under the provision of section 101 of the West Bengal Panchayat Act, 1973. He submits that the prescribed authority has only a limited scope of enquiry under the said provision. He also placed reliance upon the decision of the Hon'ble Supreme Court in ***Tapas Roy (supra)*** in support of his contention that the instant 'No Confidence Motion' cannot be said to be a stigmatic one.
9. Heard the learned advocate for the respective parties and perused the materials placed.
10. In ***Razia Sultana*** (supra) in the 'No Confidence Motion' there was an allegation that the Pradhan was not discharging the duties "transparently" and for which the development work of the Panchayat was being disrupted.
11. The Co-ordinate Bench was of the opinion that the allegation of the lack of transparency on the part of the Pradhan is a serious allegation which may include an innuendo that the Pradhan is involved in clandestine deals for self-aggrandisement or that the Pradhan does not act fairly or honestly.

12. On the facts of that case, the Hon'ble Division Bench found that the said allegation contained in the 'No Confidence Motion' was a stigmatic one. The Hon'ble Division Bench observed that if a removal notice contains allegations against an office bearer and if such an office bearer does not get an opportunity to refute such allegations whether at a hearing or by way of a written representation, that would amount to violation of the principles of natural justice and contrary to rule of law.

13. In **Ujjal Mondal** (supra) the ground mentioned in the 'No Confidence Motion' was "various illegal activities". The Hon'ble Division Bench observed that the requisition notice in view of foundation of various illegal activities goes to the root of the matter and is absolutely bad in law. The Co-ordinate Bench further observed that such allegation would have serious civil consequences which would have a direct effect on an elected member as such elected member will suffer from such consequences and it will cause prejudice and bad effect to his political career in the eye of people who send him as their representative in an elected body.

14. The Hon'ble Supreme Court in **Tapas Roy** (supra) reiterated the well-settled proposition of law that in order to constitute a stigmatic order necessitating a formal inquiry, it would have to be seen whether prior to the passing of the order there was an inquiry into the allegations involving moral turpitude or misconduct so that the order of discharge was really

a finding of guilt. It was further held that if any of these three factors are absent, the order would not be punitive. The Hon'ble Supreme Court further clarified that it is only when there is something more than imputing unsuitability for the post in question that the order may be considered to be stigmatic.

15. The language in the discharge order which fell for consideration before the Hon'ble Supreme Court was considered to be not stigmatic as it neither alleges any moral turpitude or misconduct on the part of the respondents nor there was any inquiry as such preceding the order of discharge.

16. The learned Single Judge rightly noted that the 'No Confidence Motion' merely expressed the displeasure of the requisitionist regarding the action of the writ petitioner as Sabhapati of the Panchayat Samiti. The learned Single Judge rightly observed that the private respondents made no aspersion against the writ petitioner regarding his transparency and/or capacity to act as a Sabhapati of the relevant Panchayat Samiti.

17. After going through the 'No Confidence Motion' this Court is of the considered view that the 'No Confidence Motion' cannot be said to contain any aspersion against the writ petitioner/appellant.

18. Thus, the decisions in the case of **Ujjal Mondal** (supra) and **Rizia Sultana** (supra) cannot come to the aid of the appellant.

19. In the case on hand, the requisitionists invoked the provisions of Section 101 of the 1973 Act. The

Prescribed Authority has not invoked the provisions of Section 213 of the 1973 Act. Section 213 provides for removal of the Sabhapati by an order in writing from his office, if in its opinion, he willfully omits or refuses to carry out the provisions of the said Act or of any rules or order made thereunder or abuse the powers vested in him under the Act. Section 213(2), however, provides that before making any such order, the person concerned have to be given an opportunity to make a representation against the proposed order.

20. Thus the principles of natural justice has been incorporated in Section 213. However, the instant case is not one under Section 213 but under Section 101 of the 1973 Act.

21. For all the reasons as aforesaid, this Court is not inclined to grant any relief to the appellant.

22. Accordingly, the appeal stands dismissed. The connected application stands disposed of.

23. It will be open to the Prescribed Authority to take steps in terms of this order and in accordance with law.

24. There will be no order as to costs.

25. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(HIRANMAY BHATTACHARYYA, J.)

(BISWAROOP CHOWDHURY, J.)