

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

**WPA 12325 of 2026
Anikul Hoque
vs.
State of West Bengal Ors.**

With

**WPA 12374 of 2026
Bhadu Sekh @ Bhadu Sk. & Ors.
vs.
State of West Bengal & Ors.**

For the petitioners	:	Mr. Subir Sanyal, ld. Sr. Adv.
(in WPA 12325 of 2026)		Mr. Anindya Ghosh
For respondent nos. 11 & 12		Mr. Subhrajit Mukherjee
(in WPA 12374 of 2026)		

For the petitioners	:	Mr. Biswaroop Bhattacharya
(in WPA 12374 of 2026)		Md. Sarwar Jahan
For the respondent nos. 13 to 20		Mr. Avinaba Patra
(in WPA 12325 of 2026)		

For the State	:	Mr. D. N. Ray, ld. G.P.
		Mr. Debasish Basu, ld. AGP
		Mr. Guddu Singh
		Mrs. Sarda Sha

Heard on	:	10.06.2026.
----------	---	-------------

Judgment on	:	10.06.2026
--------------------	---	-------------------

Raja Basu Chowdhury, J (Oral):

1. Two separate writ petitions have been filed. Since both the writ petitions pertain to the issue of “No Confidence Motion” for removal of

the Pradhan of Sripur-II Gram Panchayat (hereinafter referred to as the Gram Panchayat), both the writ petitions are taken up for consideration and disposal.

2. The first writ petition being WPA 12325 of 2026 has been filed by the Pradhan while the other writ petition being WPA 12374 of 2026 has been filed by the requisitionists who have introduced the motion for removal of the Pradhan. I find that it is the case of the Pradhan that the motion for removal of the Pradhan by way of a notice is defective as the same is not in accordance with law.

3. Mr. Sanyal, learned senior counsel representing the petitioner in WPA 12325 of 2026 appearing in support of the Pradhan's case would submit that the notice which has been delivered to the Pradhan does not tally with the notice issued to the Block Development Officer which is the prescribed authority in respect of the consideration of the motion for removal of Pradhan and Upo-Pradhan as provided under Section 12 of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the "said Act"). He has placed before this Court the original notice and would submit that the original notice which was served on the Pradhan is an undated letter while the notice which has been taken cognizance of by the prescribed authority is dated 25th May, 2026. This, according to him, is an infraction in the procedure. The prescribed authority was obliged to consider the same. The initiation of proceedings by taking cognizance of such notice by the prescribed authority and issuing the

notice for holding a meeting in pursuance thereto is bad in law, and cannot be sustained.

4. In this context, he has placed reliance on sub-section (2) of Section 12 of the said Act. He has also placed reliance on an unreported judgment delivered by a Coordinate bench of this Court in the case of **Masudal Mandal v. the State of West Bengal & Ors.**, in WPA 11368 of 2022 on 27th June, 2022, as also the case of **Nur Asmin Khanam v. the State of West Bengal & Ors.** in WPA 13336 of 2021 decided on 31st August, 2021. Independent of the above, he would submit that the prescribed authority is under an obligation to consider whether the motion introduced by the requisitionists conforms to the requirement of sub-section (2), and on the satisfaction of such requirement, to issue a notice within 5 working days from the date of such motion, for convening the meeting of the said Gram Panchayat to be held in its office of the members by fixing the date and hour of the meeting and sending of such notice before clear 7 days to each of its existing members for consideration of the motion.

5. By drawing attention of this Court to the notice dated 2nd June, 2026 issued by the prescribed authority to the Secretary of the Gram Panchayat, he would submit that the said letter which was issued by the prescribed authority on 2nd June, 2026 and was received by the Secretary on 2nd June, 2026 at around 2.41 P.M. requires the Secretary to complete service on the members and report service return to the prescribed authority on the following date. By placing before this Court

the copies of relevant receipted notice in prescribed forms under the signature of the prescribed authority in terms of sub-rule (2) of Rule 5B of the West Bengal Panchayat (Constitution) Rules, 1975, which are all enclosed in the writ petition, he would submit that most of the notices have been served on 6th June, 2026 by hand service on the respective members. It is clear from the above that there has been non-compliance of the provisions of sub-section (3) of Section 12 of the said Act inasmuch as the notices have not been served before clear 7 days of the date of the meeting.

6. The procedure laid down for holding the meeting is mandatory and any deviation thereof invalidates the notices, and the meeting.

7. Mr. Bhattacharya, learned advocate representing the writ petitioners *qua* the requisitionists would submit that the Pradhan is making a desperate attempt to stall his removal, though the members have lost confidence in him. Initially, a no-confidence motion was moved. Such motion, however, did not succeed and was set at naught, inasmuch as, certain stigmatic allegations were made in such notice. Pursuant to the liberty reserved in favour of the requisitionists, the subsequent notice has been issued. He submits that the requisitionists had also caused a copy of the notice to be served on the Pradhan. The minor infraction in the notice, in providing the Pradhan with the undated notice though, the same was a copy of the original in all other respect should be ignored. According to him, the Pradhan had previously approached this Court in WPA 12212 of 2026 and was

conscious at that stage that an undated notice has been served, yet he chose not to question the same as would be apparent from the order dated 5th June, 2026, passed in WPA 12212 of 2026. He also submits that simply because a challenge has been made by the Pradhan and an application for removal of some of the members of the Gram Panchayat including the requisitionists are pending before the concerned authority, the same cannot take away the right of the members of the Gram Panchayat to introduce a notice of no-confidence motion. In support of his contention, he has placed reliance on a judgment delivered by an Hon'ble Division Bench of this Court in the case of ***Abdul Ahad v. The State of West Bengal***, reported in **2017 1 CalLJ 71**.

8. On the issue of service of notice on the members of the Gram Panchayat, by drawing attention of this Court to sub-section (3) of Section 12 of the said Act, he submits that the statute in clear and in no uncertain terms indicates that the prescribed authority is only under an obligation to send such notice at least before clear 7 days of the meetings to each of the existing members. The statute does not require the prescribed authority to cause service before 7 days of the meeting. The notice has been issued on 2nd June 2026 and sent to the Secretary for service on 5th June, 2026. As such, the service in terms of the Act was made within the prescribed period. He has also by placing before this Court the provisions of Rule 46 of the West Bengal Gram Panchayat Administration Rules, 2004 (hereinafter referred to as the

“said Rules) and submitted that the Secretary of the Gram Panchayat is, in fact, an employee of the Gram Panchayat and as such there is not irregularity on the part of the prescribed authority in issuing appropriate directions to cause service of notice on the members of the Gram Panchayat through the Secretary.

9. The State is represented. The learned advocate for the State has placed before this Court a copy of the notice received by the prescribed authority. He would submit that the notice made over by the requisitionists was in accordance with the provisions of the Act. The same was supported by 12 several members which constitute Coram and/or 1/3 of the members. Since the notice dated 25th May, 2026 was in order, the prescribed authority had set the ball in motion by calling a meeting as is required to, in accordance with law. He submits that if the Pradhan has been served with an undated notice, the same does not impinge upon the powers of the prescribed authority to initiate the process. This apart, he submits that in the instant case, service was effected on the members by hand. The prescribed authority had duly issued instruction on 2nd June, 2026 for service of notice on the members and the same was received by the Secretary on 5th June, 2026. As such, according to him, the same constitutes compliance of the provisions of sub-sections (2) and (3) of Section 12 of the said Act. There is no irregularity in procedure.

10. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, what falls for

consideration in the present cause is whether the initial notice issued by the requisitionists to introduce a motion of no-confidence is in accordance with the Act? The other ancillary question that falls for consideration is whether the prescribed authority had acted in accordance with the provisions of the said Act? and whether the notice issued on the members by the prescribed authority conforms to the provisions of sub-section (3) of Section 12 of the said Act?

11. I find, admittedly in this case, the Pradhan had previously approached this Court challenging a prior notice issued by the requisitionists in WPA 11784 of 2026. On contesting hearing, by an order dated 22nd May, 2026, this Court upon hearing the learned advocates appearing for the respective parties and since the learned advocate for the requisitionists had stated that the requisition suffers from irregularity as stigmatic remarks had been made therein, was pleased to quash the requisition notice dated 13th May, 2026 and the subsequent notice of meeting dated 19th May, 2026. At the same time, the requisitionists were granted liberty to move a fresh motion, if so advised.

12. Records would reveal that in terms of the liberty so reserved, the requisitionists initiated a fresh motion by addressing the same to the prescribed authority. The copy of such motion as served on the Pradhan was, however, undated though, the motion which was made over to the prescribed authority was a dated document. I find that the petitioner had subsequent to receipt of the undated notice, approached

this Court in WPA 12212 of 2026, though the prayers made in such writ petition were confined to non-disposal of an application for removal of the members under Section 11(1)(d) of the said Act by the concerned authority. No challenge was made to the said notice of no-confidence at that stage. The writ petition was disposed of by an order dated 5th June, 2026 without touching upon the issue of the notice. In this context it would be relevant to note that Mr. Bhattacharya, learned advocate representing the requisitionists has contended that since the petitioner chose not to contest the issue of infraction contained in the requisition notice, the Pradhan has given a go-by to such challenge and is otherwise estopped from maintaining a challenge to such notice on such ground. To morefully appreciate the above contention of Mr. Bhattacharya, the issue of defective notice, and the issue of short-service of notice by the prescribed authority, it is necessary to extract the provisions of sub-sections (1), (2), (3) and (4) of Section 12 of the said Act. The same are extracted hereinbelow:

“[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.”

13. As would appear from the above, sub-section (2) authorizes the members of the Gram Panchayat provided they constitute one-third of the existing members as referred to in sub-section (1), to introduce a motion expressing their lack of confidence against the Pradhan or the Upa-Pradhan or recording their intention to remove the Pradhan or the Upa-Pradhan and to deliver such motion in person through any of the members and send it by registered post to the prescribed authority. Admittedly, in the instant case, I find that such procedure of introducing the motion has been followed and the requisitionists by complying with such procedure has issued the notice to the prescribed authority. On such ground, the requisitionists cannot be faulted. The issue is, however, little different since sub-section(2) of Section 12 of the said Act also casts an obligation on the requisitionists to deliver a

copy of the motion to the concerned office bearer by hand or by registered post at the Gram Panchayat Office and another copy to be sent by registered post at his residence and since, sub-section (3) requires the prescribed authority on receipt of the motion to satisfy himself that it conforms to the requirement of sub-section (2) and on his satisfaction to convene the meeting, having regard to the above, this Court has tested out whether the notice served on the Pradhan and the prescribed authority is one and the same as the statute mandates service of copy of the notice seeking removal to be served on the concerned office bearer whose removal is sought for. Admittedly in this case, the notice served on the prescribed authority and the Pradhan has a variation though, the requisitionists claim the same to be a minor variation, I find that the notice which has been served on the Pradhan does not have any particular date and is undated.

Since, the advocate for the requisitionists claims that the variation in the concerned copy of the notice is minor and submitted that the defect be condoned by ignoring such variation, I have examined whether the varied copy of the notice on the office bearer can constitute compliance of the provision for service of notice of removal on the office bearer. Though, the term 'copy' has not been defined in the said Act, however, this Court finds that the Hon'ble Supreme Court in the case of ***M/s. Hindustan Construction Company Ltd. v. Union of India***, reported in **AIR 1967 SC 526** had dealt with the scope and meaning of the word 'signed copy' though in relation to Arbitration Act,

1940. Such consideration was necessitated as for obtaining a judgment on the Award under Section 17 of the Arbitration Act, 1940, on a request by the party as per Section 14(2), the Arbitrator is required to file the award or the signed copy of the award along with deposition and documents taken and proved before him, before the Court. In the said case, the Award admittedly was not filed, what was filed was a copy. It is in that context, the Hon'ble Supreme Court had dealt with the expression 'copy' in paragraph 6 of the judgment. The said paragraph along with its two preceding paragraphs are extracted hereinbelow for appropriately appreciate the observations of the Hon'ble Supreme Court.

“ 4. The main question that has been argued on behalf of the appellant is that the document in question is a signed copy of the award within the meaning of those words in Section 14(2) and therefore further proceedings should have been taken under Section 17 of the Act. Now the relevant part of Section 14(2) reads thus:

“(2) The arbitrators or umpire shall, at the request of any party to the arbitration agreement or any person claiming under such party or if so directed by the court ... cause the award or a signed copy of it, together with any depositions and documents which may have been taken and proved before them, to be filed in court”

5. Therefore when a notice is issued by a court to the arbitrators or umpire it is their duty to file in court either the award in original or a signed copy thereof as directed by the court. It is not in dispute that in the present case the original award has not been filed. The dispute is whether the document filed is a signed copy of the award. The main contention on behalf of the appellant is that the document is a signed copy of the award within the meaning of those words in Section 14(2), and thus should have been acted upon by the court. On the other hand, it is contended on behalf of the respondent that what has been filed is a certified copy of the award and not a signed copy thereof, and therefore it cannot be acted upon. The High Court has accepted the contention of the respondent and all that it has said in that behalf is that it is clear from a perusal of the award that it is not a signed copy of the award but it is certified as correct copy of the award dated the 27th May, 1961. Unfortunately, the High Court has not considered what exactly the words “signed copy of the award” mean, and it is to this problem that we must now turn.

6. Now the word “copy” as such is not defined in the Indian Evidence Act, 1 of 1872. But we get an idea of what a copy is from the provisions

of Section 63 of the Evidence Act. That section inter alia defines what secondary evidence means and includes namely — (i) certified copies as provided, in Section 76 of the Evidence Act, (ii) copies made from the original by mechanical processes which in themselves insure the accuracy of the copy, and copies compared with such copies, and (iii) copies made from or compared with the original. Obviously, therefore a copy means a document prepared from the original which is an accurate or true copy of the original. In Webster's New World Dictionary, the word "copy" means "a thing made just like another; full reproduction or transcription". What the word "copy" in Section 14(2) therefore requires is that it must be a full reproduction of the original and that it should be accurate or true. When a document is an accurate or true and full reproduction of the original it would be a copy. In the present case it is not in dispute that what was produced by Sri Dildar Hussain was a true or accurate and full reproduction of the original. It was therefore a copy of the original, and the only question that remains is whether it was signed, for if it was signed, it would be a signed copy."

15. I find that a Coordinate Bench of this Court in the case of **Nur Asmin Khanam** (supra) while considering the term 'copy' as provided for in sub-section (2) of Section 12 of the said Act had made the following observations:-

"This Court relying on the decisions of the Hon'ble Apex Court in the matter of M/s Hindustan Construction Co. Ltd. v. The Union of India reported in 1967 0 AIR (SC) 526, is of the view that interpretation of the term 'copy' under Section 12(2) of the said Act would be same as its interpretation under the provisions of Evidence Act with regard to secondary evidence."

16. Similar view has been taken by the Coordinate Bench in the case of **Masudul Mandal** (supra). In the instant case, there can be no doubt whatsoever that the notice issued to the prescribed authority and the Pradhan are not one and the same as the notice served on the Pradhan cannot be said to be a true copy of a notice as is required to be served under Section 12(2) of the said Act. Thus, in the light of the above and having regard to sub-section (1), the motion is a non-starter.

17. Independent of the aforesaid, the other question which requires to be answered is whether the petitioner having not previously challenged the same while moving the writ petition, being WPA 12212

of 2026 could canvas such cause once again in a separate petition. I find that the answer in this regard lies in sub-section (3) of Section 12 of the said Act. In this context, it may be noted that the learned advocate for the State has submitted that the State is only obliged to consider whether the requisition notice as served on the State is in order but I find, having regard to the provisions contained in sub-section (3) of Section 12 of the said Act, it is the obligation of the prescribed authority to satisfy himself that the motion conforms to the requirement of sub-section (2) of Section 12 of the said Act. Admittedly in this case, the notice does not conform to the requirement of sub-section (2) as the copy of the notice which has been served on the Pradhan is not the copy of the notice which was served on the prescribed authority. In this context, I may note that on 5th June, 2026 when the previous writ petition was disposed of, the petitioner claims that he was not aware of the acceptance of the notice by the prescribed authority and the consequential steps of convening the meeting. Since at that stage, the prescribed authority was yet to take a decision in the matter, I am of the view that the same could not interfere with the rights of the petitioner to challenge such notice upon the prescribed authority taking cognizance of the same on his satisfaction that the same conforms to the requirement of sub-section (2). As rightly pointed out by Mr. Sanyal, till such time the prescribed authority noted his satisfaction by issuing a notice convening the meeting, the petitioner could not have any cause of action to challenge the same as the same

would have been premature at that stage. The right to enforce statutory compliance by the prescribed authority through the intervention of this Court arose only when there had been infringement of such right.

18. The other aspect of the matter which falls for consideration in the instant writ petition is whether there has been short-service of notice by the prescribed authority. I find from the disclosure made in the first writ petition at page no.67 thereof, that the prescribed authority has called upon the Secretary of the Gram Panchayat to cause service of the notice to the individual members and returned the receipted copy thereof to the office of the prescribed authority within 6th June, 2026. The notice is dated 2nd June, 2026. Even if I accept that the prescribed authority having regard to Rule 46 of the said Rules had attempted to cause service of the notices through the Secretary, the actual service effected on the members appears to indicate that there has been short-service of notices as the notices were not served before clear 7 days. It is true that the statute does not requires the prescribed authority to serve the notice on the members of the panchayat, the requirement of the statute is satisfied if the same is sent. Since in the instant case, the notices were actually delivered by hand on 6th June, 2026 and not by post, the factum of causing service through the Secretary on 2nd June, 2026 does not absolve the prescribed authority of its obligation of sending such notice to the members within the prescribed period. It is apparent that the hand service did not comply with the requirement of sending the notice before clear 7 days. The act of issuing direction on

the Secretary to cause service does not constitute '*sending*' of notices to the members. In my view, the prescribed period provided for in sub-section (3) for service of notice is mandatory having regard to the language used in sub-section (1) which clearly indicates that the power of removal of the Pradhan or the Upa-Pradhan by majority members expressing no-confidence in the meeting specially convened is subject to other provisions of the said section. Since, sub-section (2) has not been complied with, the process stands vitiated. No meeting can be convened on the basis of such defective notice.

19. Be that as it may, since the very initiation of motion to remove the Pradhan is bad, the writ petition being WPA 12325 of 2026 succeeds. However, since the requisition has been set aside on the ground of substantial defect in notice, it shall be open to the requisitionists to proceed afresh in accordance with law, if so advised.

20. Since the writ petition being WPA 12325 of 2026 is allowed, no decision is rendered in respect of WPA 12374 of 2026 and the same is disposed of without any order.

21. The report filed in Court today by the State in WPA 12374 of 2026 is taken on record.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Raja Basu Chowdhury, J.)