

22.06.2026
SL No.33
Court No.12
(gc)

MAT 988 of 2026
CAN 1 of 2026
CAN 2 of 2026

Akhtari Khatun
Vs.
The State of West Bengal & Ors.

Mr. Md. Sarwar Jahan,
Mr. Avinaba Patra

... for the Appellant.

Mrs. Susmita Saha Dutta, A.G.P.
Ms. Tanusree Ghosh

....for the State.

Mr. Srijib Chakraborty,
Mr. Anindya Ghosh,
Mr. Souvik Das

...for the Respondent Nos.22 to 30.

Re: CAN 2 of 2026

1. This is an application for condonation of delay of 12 days in filing the memorandum of appeal.
2. Mr. Chakraborty, learned Advocate appearing for the respondent nos.22 to 30 submits that the delay should not be condoned.
3. We do not find any merit on the submission of Mr. Chakraborty.
4. Considering the averments made in paragraphs 6 and 7 of the said application, we are satisfied that the delay has been sufficiently explained. The delay of 12 days is condoned.

5. Accordingly, CAN 2 of 2026 is allowed and disposed of.

6. The appeal is registered.

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7. The order impugned cannot be sustained in law. The interpretation of the word “shall” under Sections 12(3), 12(4) and 12(10) of the West Bengal Panchayat Act, 1973 on the ratio of **C. Bright Vs. District Collector and Others** reported in **(2021) 2 SCC 392** is contrary to the settled position of law with regard to the mandatory nature of the timelines stated in Section 12 of the West Bengal Panchayat Act, 1973.

8. The appellant is the elected Pradhan of Alinagar Gram Panchayat. A No Confidence Motion was brought on March 6, 2026 against Pradhan of Alinagar Gram Panchayat. As the prescribed authority did not take steps, the members who brought the No Confidence Motion approached the writ court, after the expiry of 30 days. The learned Court was of the opinion that the said Motion could be proceeded with as the timelines could not be treated to be mandatory. Her Lordship relied on decisions which are not applicable in the instant case.

9. Under such circumstances, we set aside the order impugned.
10. Right to remove the Pradhan in accordance with law is a statutory right conferred upon the members. In the event the members are dissatisfied with the Pradhan, they can bring such Motion against the Pradhan. The prescribed authority is duty-bound to proceed with the Motion, if it is found to be in compliance with the statutory provisions.
11. Section 12 of the said Act is quoted below:-

“S.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 subsection (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 subsection (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.

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(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 up to the action finally taken by him shall be completed within thirty days.

12. The time limit of 15 working days is proceeded by a negative covenant “shall not be held beyond”. The statute does not provide for any condonation except in a situation when the meeting cannot be held due order of court or for reasons beyond the control of the prescribed authority.
13. Under such circumstances, the order impugned is set aside. However, the right of the requisitionists to remove the Pradhan is a legal and democratic right. The requisitionists shall be at liberty to bring another motion in accordance with law and the prescribed authority is directed to take steps and comply with the provision of law, without unnecessarily delaying the issue, for whatever reason. The prescribed authority is the creature of a statute and cannot make excuses for his inaction. We take judicial notice of his failure in the first round. Accordingly, the appeal and the connected application are disposed of.
14. It is made clear that the Pradhan will not adopt any tactic to avoid service of the motion. If the motion is in order, the meeting will be held and the police authorities will provide adequate protection/assistance.
15. The order of Her Lordship has led to issuance of a notice by the concerned prescribed authority. The

said notice of the proposed meeting is hereby set aside.

16. Mr. Chakraborty's apprehension that the prescribed authority will not take steps and will remain silent, is not accepted by this Bench, as we are of the view that the prescribed authority is bound by law to take steps.

17. Accordingly, the appeal and the application are disposed of.

18. However, there shall be no order as to costs.

19. Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)