14.10.2026
SL No.18
Court No.12
(gc)

MAT 1273 of 2026
CAN 1 of 2026

Papiya Sarkar
Vs.
The State of West Bengal & Ors.

Mr. Tanmoy Chattopadhyay
...for the Appellant.

Mr. Arkaprava Sen, S.G., Adv.
...for the State.

Mr. Srijib Chakraborty,
Mr. Aditya Mondal
...for the Respondent Nos.10-24.

1. The appeal arises out of an order dated July 31, 2026 passed in WPA 12152 of 2026. By the order impugned, the learned Judge held that the meeting for the removal of the Pradhan on June 30, 2026 was valid in the eye of law. The No-Confidence Motion was assailed by the appellant on the ground of non-compliance with Section 12(2) of the West Bengal Panchayat Act, 1973. It was alleged that an earlier motion was brought on February 11, 2026 pursuant to which the Prescribed Authority called the members for verification by a notice dated February 24, 2026. Thereafter, no step were taken by the prescribed authority with regard to the said motion. The requisitionists remained silent. Thereafter, they submitted a fresh motion on May 15, 2026, which was not permissible in law. By the time, the matter came up for hearing before the learned Single Judge, the meeting was held and the Pradhan was removed. However, in view of the interim order passed by the

learned Writ Court on May 29, 2026, the consequential steps were stayed, although the meeting was permitted to be held. We were inclined to admit the appeal on the sole ground that the meeting was held beyond the prescribed period under Section 12(4) of the said Act read with Section 12(10).

2. Under such circumstances, we passed the interim order directing the parties to exchange affidavits and we also directed that, if the new Pradhan had not been elected, then the Upa-Pradhan should continue to discharge duties.

3. Mr. Chattopadhyay submits that apart from the compliances, the crucial illegality on the part of the prescribed authority was to allow a second motion during the pendency of the first one. He also submits that a meeting which was held beyond the period prescribed was a nullity.

4. Mr. Chakraborty submits that the requisitionists had no option, but to bring the second requisition as the prescribed authority failed to discharge his statutory function and act on the basis of the first requisition. The Prescribed Authority fixed the date of the meeting as per his convenience and the requisitionists cannot be faulted for the delay. Thus, when the Pradhan had been removed by the majority vote, she cannot function. Under such circumstances, the order impugned should be upheld.

5. We are of the considered opinion that the Prescribed Authority could not have entertained multiple motions and the first motion should have been given effect to in accordance with law and within the statutory period. Only the Court in exercise of power under Article 226 of the Constitution of India can grant liberty to the requisitionists to bring a fresh motion, if either by delay or by inaction, the earlier motion had been frustrated. Secondly, the meeting which was held beyond 30 days was in violation of the provisions of the statute. Section 12 is quoted below for convenience:-

> **"12. Motion of no confidence or removal of Pradhan or Upa-Pradhan.**
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> (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.
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> (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.
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> (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.

(11)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 same office bearer shall be taken into cognizance within a period of one year from the date appointed for such meeting.

(12)Notwithstanding anything contained in sub-section (1), no meeting for removal of the Pradhan or the Upa-Pradhan under this section shall be convened within a period of one year from the date of election of the Pradhan or the Upa-Pradhan either at the first meeting following reconstitution of Gram Panchayat or for filling casual vacancy in the said office.]

6. It is the duty of the Prescribed Authority to strictly adhere to the statutory provisions. The meeting must be held within 15 working days from receipt of the motion. The entire process has to be completed within 30 days from the date of receipt of the requisition, failing which, the intention of the legislature is severely frustrated. However, the members have a right to remove the Pradhan by a majority vote which is their

democratic right. The compliances under Section 12, however, have to be adhered to.

7. Accordingly, the order impugned is set aside.

8. The result of the meeting is also set aside.

9. We grant liberty to the requisitionists to bring a fresh motion in accordance with law.

10. We direct the Prescribed Authority to comply with his statutory duties and convene the meeting within the time prescribed by law.

11. The Superintendent of Police shall ensure police assistance, if required.

12. However, the Prescribed Authority shall not adjourn the meeting on any frivolous ground, including non-availability of police force.

13. The requisition shall be brought not before one week after the reopening of the office of the Gram Panchayat after the puja vacation.

14. The interim order stands vacated, but we make it clear that if the Pradhan is successful in the election to be held pursuant to the motion to be brought, in that event the Pradhan will assume charge. Till such meeting is held, the Upa Pradhan will carry out the day to day functions.

15. Accordingly, the appeal and the connected application are disposed of.

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

17. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties on usual undertaking.

(Shampa Sarkar, J.)

(Arjun Ray Mukherjee, J.)