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jdt. 05.05.2026
jb.

WPA 9488 of 2026
(Minarul Islam & Ors. vs. State of West Bengal & Ors.)

Mr. Rabiul Islam
Masooq Rahaman
.... **For the Petitioners**

Amarul Islam
Mr. Sourav Mukherjee
Mr. Rourav Ray
.... **For the Private Respondent nos. 6-7**

Affidavit of service filed by the petitioners is taken on record.

None appears for the State despite service.

Learned counsel for the petitioners submits that the petitioners submitted a no confidence motion against the Pradhan, being the 6th respondent herein, which was received by the prescribed authority on 3rd March, 2026. Unfortunately, no step has been taken by the prescribed authority in terms of Section 12(2) of the West Bengal Panchayat Act, 1973. The petitioners have approached this Court after lapse of the statutory period of time.

It is a fact that the statutory period of time as laid down under Section 12 of the Act has expired. At this juncture, this Court is inclined to place reliance on the authority in **C. Bright vs. District Collector and Others** reported in **(2021) 2 SCC 392** wherein the Hon'ble Supreme Court has dealt with the rule of interpretation of statutes and has observed that the use of word 'shall' in the statute does not necessarily mean that in every case it is mandatory that unless the 'words' of the statute are literally followed, the proceedings or the outcome of the proceedings would be

invalid. When the statute uses the word 'shall', prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. The principle of liberal construction of the statute alone in all circumstances may not serve the purpose of the statute. Referring to a judgment in **Remington Rand of India Limited vs. Workmen** reported in **AIR 1968 Supreme Court, 224** dealing with Section 17 of the Industrial Disputes Act, 1947, the Hon'ble Court has stated that though Section 17 is mandatory, the time limit to publish the award within 30 days is directory inter alia, for the reason that non publication of the award within the period of 30 days does not entail any penalty.

The ratio decidendi of the said judgment is squarely applicable in the fact situation of the present case. Requisition notice was received by the prescribed authority on 3rd March, 2026.

The authority was supposed to complete the entire procedure in terms of sub-section (10) within 2nd April, 2026. Non compliance of the said mandate does not entail any penalty upon the prescribed authority.

In view of the proposition of law laid down by the Hon'ble Supreme Court, this Court directs the prescribed authority, being the 4th respondent herein, to take necessary steps in terms of Section 12 of the Act by treating the requisition notice to have been submitted on the date of communication of this order.

The entire exercise should be completed strictly in terms of Section 12 of the Act considering the date of

submission of motion to be the date of communication of this order.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Since no affidavit has been invited, allegations contained in the writ petition shall be deemed not to have been admitted.

Urgent certified website copy of the order, if applied for, be given to the parties on compliance of requisite formalities

(Suvra Ghosh, J.)