

02.07.2026
Court No. 12
Item No. 17
Sandip

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

M.A.T. 1035 of 2026
IA No : CAN 1 of 2026

Md. Asfatur Rohman
-Versus-

The State of West Bengal & Ors.

Mr. Piyush Chaturvedi, Ld. Sr. Adv.,
Mr. Niladri Saha,
Mr. Dipjyoti Chakraborti,
Ms. Madhurima Basu
.....for the appellant.

Mr. D. N. Ray, Ld. GP,
Mrs. Sarda Sha
....for the State.

Mr. Gangadhar Das,
Mr. Tanmoy Chattopadhyay
....for the respondents.

- 1) Affidavit-of-service filed on behalf of the appellant is taken on record.
- 2) Leave is granted to correct the cause title by deleting the respondent no. 21. The Pradhan of Chandmoni-II gram panchayat.
- 3) The appeal arises out of an order dated June 15, 2026 passed in W.P.A. 12537 of 2026.
- 4) By the order impugned, the learned Judge directed the prescribed authority to hold the meeting of no confidence against the Pradhan pursuant to the requisition notice/motion brought by the requisitionists, namely, the respondent nos. 10 to 20.
- 5) In the first round of litigation, the notice of the meeting dated May 18, 2026 was under challenge in WPA 12140 of 2026. The writ petition was kept pending and the learned

Judge held that, there was no illegality in the notice issued by the prescribed authority. Her Lordship directed that the meeting shall continue and would be subject to the result of the writ petition. Subsequently, the prescribed authority postponed the date of the meeting and the requisitionists challenged the said decision by filing W.P.A. No. 12537 of 2026.

6) Upon hearing the parties, Her Lordship allowed the writ petition, thereby, directing the prescribed authority to hold a meeting within 10 days from the date of communication of the order by the requisitionists. Her Lordship was of the view that Section 12 (10) of the West Bengal Panchayat Act, 1973 could not be held to be mandatory. As per the law, the meeting and the entire process should have been completed within June 10, 2026. The learned Judge erred in extending the time to hold the meeting, without taking note of the mandatory nature of the time limits, which have been prescribed by the law.

7) Mr. Das, learned advocate for the respondents submits that the prescribed authority could not hold the meeting due to non-availability of police force. The situation was beyond his control. Thus, Her Lordship had directed the meeting to be held within 10 days from the date of communication of the order.

8) The reason provided in the letter by which the prescribed authority postponed the meeting scheduled to be held on June 4, 2026, was non-availability of police force.

9) Under section 12 (4) of the said Act, the meeting has to be held within 15 working days

from the date of receipt of motion by the prescribed authority and the meeting shall not be adjourned or cancelled except in pursuance of an order or direction of a competent Court or for reasons beyond control of the prescribed authority.

10) From the communication of the prescribed authority, we do not find that the reason recorded was in accordance with the ground for postponement. The reason assigned was that police force was not available. However, the prescribed authority did not record that the situation was such that, it demanded adequate police posting for the meeting to be held. Moreover, we find that the presumption was that there could be a problem and hence police force would be required.

11) The law does not provide that, in every meeting of such nature, police posting is necessary. The meeting could have gone through and in the event the prescribed authority felt that law and order problem would arise, he could have immediately called for intervention by the police authority. It is the duty of the police authority to assist all Government officials in discharge of their official duties. Thus, the ground for postponement of the meeting is not tenable in law. Unless specific instances were provided to demonstrate that, non-availability of the police force would result in a chaotic or unsafe situation, the postponement of the meeting deserves to be set aside. Section 12 (10) of the said Act provides that the entire process from the receipt of the requisition till the completion of the meeting, should be concluded within 30

days. The order impugned extends the time indefinitely. The order impugned also does not specify that, prior to holding of the meeting, a notice would have to be given by the prescribed authority. The prescribed authority, after postponement, had not given any date for the meeting.

11. Section 12 of the said Act deals with the motion of no confidence for removal of the Pradhan or Upa-Pradhan. Section 12(1) provides that the Pradhan or Upa-Pradhan of the Gram Panchayat may, at any time be removed from his office by majority of the existing members of the Gram Panchayat, expressing their lack of confidence against the Pradhan or Upa-Pradhan or by recording the decision to remove the Pradhan or Upa-Pradhan, **“at a meeting specially convened for the purpose”**. For the purpose of removal of the Pradhan or Upa-Pradhan one third of the existing members subject to the minimum of three members, shall sign a motion in writing expressing their lack of confidence against the Pradhan or Upa-Pradhan or recording their intention to remove the Pradhan or Upa-Pradhan, by indicating the party affiliation or independent status of each of the members. The said motion shall be delivered in person or through any member or 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 of the Gram Panchayat office. Another copy of the motion shall be sent by registered post at the residential address of the office bearer sought to be removed. Sub-section (3) provides that the prescribed authority on receipt of the motion shall satisfy himself that the motion conformed to the requirement of sub-section (2) of Section 12. On being satisfied, the notice convening the meeting will be sent within five working days from the receipt of the motion. Before the meeting is held, clear seven days notice to each of the existing members shall be given for consideration of the motion and for taking a decision on it. Thus, Section 12(3) and Section 12(4) provides time frames.

12. The learned trial Judge extended this period by directing that steps should be taken within 10 working days from the date of communication of the order by the requisitionists. The learned Judge overlooked the time frame and the step by step actions that are to be taken by the prescribed authority before holding the meeting. The entire process

under Section 12 has to be completed within 30 days. The learned Single Judge did not provide the period within which the notice should be issued, before the meeting is convened. The time limits under Section 12(3), (4) and 10 are mandatory.

13. The relevant provisions are quoted below:-

“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."

14. It is also evident from the language of Section 12(4) that the meeting referred to under Section 12(2) shall not be held beyond 15 working days from the date of receipt of motion by the prescribed authority. By the time the order was passed,

the period prescribed under 12(4) as also 12(10) had expired. The language used in section 12(4) makes the time period of 15 working days for holding the meeting mandatory, except under certain circumstances.

15. Section 12(10) provides that the entire process has to be completed within 30 days, that is, not only holding of the meeting but also forwarding of the minutes of the meeting by the presiding officer, submission of a separate report in writing with a copy of the, minutes of the meeting and taking such action as the prescribed authority may deem fit. Under such circumstances, the learned Court failed to consider the mandatory time limits specified under each sub-section of Section 12. This motion loses its validity after a period of 30 days.

16. 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

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.

17. 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.

18. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Shampa Sarkar, J.)

(Smita Das De, J.)