

16.07.2026
rc/ct.no.15
Item No.38

WPA No. 15046 of 2026
Nargis Bibi
Versus
The State of West Bengal & Ors.

Mr. Robiul Islam
Sk. Jayed Hossain
Mr. Raju Mondal
Mr. Masooq Rahaman ..for the petitioner

Mr. Aninda Bhattacharya ...for the State

Mr. Md. Sarwar Jahan
Mr. Shahan Shah
Mr. Debabrata Mondal
Ms. Sreetama Neogi
Mr. Md. Shahjahan ...for the Private Respondents

The petitioner who is the Pradhan of 10 Patikabari Gram Panchayat has assailed the no confidence motion submitted by the majority members/private respondents on the ground that though the motion was received by the Prescribed Authority on June 01, 2026, notice of meeting was issued on June 09, 2026, i.e., beyond five working days from the date of receipt of the motion as stipulated in Section 12(2) of the West Bengal Panchayat Act, 1973.

Learned counsel for the private respondents submits that the motion cannot be set aside on such hyper technical ground. The meeting scheduled to be held on June 18, 2026 was postponed by the Prescribed Authority due to non-availability of police assistance after which the present writ petition has been filed on July 01, 2026. Placing reliance on a judgment delivered by an Hon'ble

Division Bench of this Court in MAT No. 468 of 2022 on May 18, 2023, learned counsel submits that the Hon'ble Division Bench has held that the notice of seven days to the members of the Panchayat is not a mandatory requirement and violation of any procedural provision cannot be said to automatically vitiate the enquiry held or order passed.

The proposition of law laid down in the said judgment is squarely applicable in the fact situation of the present case. It is a fact that the meeting was convened after expiry of five working days from receipt of the motion. However, it is trite law that such lapse on the part of the Prescribed Authority cannot vitiate the entire proceeding since the time period stated in Section 12(3) of the Act can be said to be directory and not mandatory as no default clause or penalty is attached to it. Unless there is an allegation of no opportunity of hearing being granted to the Pradhan or no notice being served upon the Pradhan is on record, the proceeding cannot lapse on technical/hyper technical grounds. Also, violation of the time frame is attributable to the Prescribed Authority and the private respondents/members cannot suffer for no fault on their part.

The date of meeting was fixed within fifteen working days of receipt of the motion which is in conformity with Section 12(4) of the Act.

In view of the above, mere convening the meeting after lapse of five days from the date of receipt of the motion does not render the motion invalid. This is a democratic process and the Pradhan/petitioner appears to have lost confidence of the majority of the members. She should accept the decision of the majority.

The writ petition of devoid of any merit and is accordingly dismissed.

There shall, however, be no order as to costs.

Urgent certified website copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Suvra Ghosh,J)