

10.07.2026
Item no. 3
Court No.12
Sandip

MAT 1104 of 2026
CAN 1 of 2026

Sultana Khatun
Vs.
Wasim Akram & Ors.

Mr. Partha Sarathi Ghosh,
Mr. Joy Chakraborty,
Ms. Ipsita Ghosh

.....for the Appellant.

Mr. Partha Sarathi Bhattacharjee, Sr. Adv.,
Md. Hafiz Ali,
Ms. Kakali Das Chakraborty

....for the Respondent nos. 1 to 24.

Ms. Susmita Saha Dutta, Ld. A.G.P.,
Mr. Niladri Saha

....for the State.

1. The appellant is the Sabhapati of Burwan Panchayat Samiti. The appellant is aggrieved by the decision of the learned Single Judge dated July 01, 2026, passed in WPA 13799 of 2026. The respondent nos. 1 to 24 brought a notice of no confidence against the appellant on June 4, 2026, which was received by the prescribed authority on the same day.
2. By a notice dated June 8, 2026, the prescribed authority fixed the date of meeting on June 18, 2026. By a subsequent notice issued on June 17, 2026, the meeting was cancelled on the ground that, as the police authorities anticipated breach of peace, the meeting could not be held. The requisitionists approached the writ court, aggrieved by the postponement of the meeting by the prescribed authority, by filing the writ petition.

3. Ms. Ipsita Ghosh, learned Advocate for the appellant submits that Her Lordship had failed to take into consideration Section 101 (10) of the West Bengal Panchayat Act, 1973 (hereinafter referred to as the “said Act”) and erroneously directed the meeting to be held beyond the time prescribed by the statute.
4. According to Ms. Ghosh, the time limit prescribed under Section 101 of the said Act, for the steps to be taken by the prescribed authority, upon receipt of the notice of no confidence, were mandatory and the Court could not extend the time by directing the prescribed authority to convene the meeting within 10 days from the date of communication of the order.
5. Mr. Bhattacharya, learned senior Advocate appearing for the respondent nos.1 to 24/requisitionists submits that the prescribed authority had intentionally postponed the meeting. Thus, the learned Single Judge treated the date of the order to be the date of the requisition and extended the time by 10 days, which was well within the time limit prescribed under Section 12(4) of the said Act. He further submits that the prescribed authority can postpone the meeting for reasons beyond his control, in terms of the exception under Section 101 (4) of the said Act. The mandatory time limit to hold the meeting within 15 working days from the receipt of the notice of motion, is not required to be followed in such cases. He relies on a decision of a Division Bench passed in MAT 652 of 2021.

6. In our view, if the prescribed authority felt that the situation was beyond his control, and he was not in a position to hold the meeting, details of why he was of the view that without adequate police force, the meeting could not be held, and whether he was himself apprehensive of law and order problems and/or violence, should have been reflected in the notice of postponement. The reason given is the perception of the police, who do not have a role to play in the entire scheme of things. Secondly, there is nothing on record which would show that the prescribed authority had the serious intention of holding the meeting on any subsequent date. The time limit prescribed under Section 101(4) for the meeting of no confidence is 15 working days from the date of receipt of the notice.
7. Admittedly, the notice of motion was received on June 4, 2026 and the meeting was first fixed on June 18, 2026. However, the prescribed authority could have decided on the date within the time limit prescribed under Section 101(10), which provides that the entire process of issuing notices, holding the meeting and communicating the result of the meeting to the appropriate authority has to be completed within 30 days from the date of receipt of the notice of motion.
8. We do not find any bonafide intention of the prescribed authority to take such steps within the statutory period. Thus, the writ court could not have extended the time beyond the period of 30 days. Such direction

would amount to rewriting the statute. Extension of the time limit prescribed by law, is not within the power of a writ court, in exercise of power of judicial review.

9. Under such circumstances, we are not in agreement with Mr. Bhattacharya, to the extent that the requisition which was brought forth by the requisitionists should be treated as valid and alive. The requisition lost its force, the moment the time limit prescribed by law had expired.

10. We are also surprised to find that the prescribed authority had adopted a method of ignoring the requisition and not holding the meeting, on the information of the Officer-in-Charge of the concerned police station. The law does not prescribe that such meetings have to be held in the presence of the police authorities. Thus, such a plea of the prescribed authority is not in conformity with the expression “reasons beyond the control”.

11. Reliance placed by Mr. Bhattacharya on the decision of the Division Bench in MAT 652 of 2021 does not help the situation, inasmuch as, such decision was rendered when the meeting could not be held on account of prohibitions imposed under the provisions of the Disaster Management Act. Assembly of persons was prohibited. The time limits prescribed under Section 101 of the said Act are mandatory. Secondly, we find from the order of Their Lordships

which has been relied upon by Mr. Bhattacharya that, the postponement of the meeting was explained by interpreting the provisions of Section 12 (4). During the Covid pandemic, the functionaries of the State did not have any opportunity to discharge their statutory duties.

12. Here, the order of postponement was issued right before the day of the meeting. We do not find any formation of opinion by the Sub-Divisional Officer that the situation was beyond his control and the police authorities could not render any service to prevent apprehended violence or breach of peace. By simply relying on a communication of the Officer-in-charge, that there was an apprehension of breach of peace, the SDO postponed the meeting indefinitely. The subjective satisfaction of the S.D.O. that the situation was beyond his control as he expected law and order problems, is not available. Under such circumstances, the decision of the Hon'ble Division Bench does not apply to the facts of this case.

13. Section 101 (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. By the order impugned, the time has been extended by further 10 days from the date of communication of the order of Her Lordship dated July 1, 2026.

14. Mr. Bhattacharya informs us that the meeting has been scheduled on July 17, 2026. The notice by which the meeting has been fixed on July 17, 2026 is also set aside.

15. The relevant portions of the law governing the procedure to be followed in order to give a logical conclusion to the notice of motion are quoted below:-

“[101. Motion of no confidence or removal of Sabhapati or Sahakari Sabhapati.-(1)

Subject to other provisions of this section the Sabhapati or the Sahakari Sabhapati of a Panchayat Samiti may, at any time, be removed from his office by the majority of the existing members of the Panchayat Samiti, referred to in clause (ii) of sub-section (2) of section 94, expressing their lack of confidence against the Sabhapati or the Sahakari Sabhapati or recording their decision to remove the Sabhapati or the Sahakari Sabhapati, at a meeting specially convened for the purpose.

(2) For the purpose of removal of the Sabhapati or the Sahakari Sabhapati, one-third of the existing members referred to in sub-section (1) shall sign a motion in writing expressing their lack of confidence against the Sabhapati or the Sahakari Sabhapati or recording their intention to remove the Sabhapati or the Sahakari Sabhapati, 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 Panchayat Samiti 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 Panchayat Samiti 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 per cent 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 Officer or in his absence, the Joint Executive Officer of the Panchayat Samiti shall, within three working days of the meeting, deliver the copy of the minutes of the meeting to the prescribed authority.

(b) The presiding officer shall also submit a separate report in writing along with 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 take such action as he may deem fit within next five working days 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.”

16. The learned single Judge also failed to take into account the decision of the Division Bench, which was placed by the learned advocate for the appellant on the self same issue. The order of the Division Bench dated March 17, 2026 on a self same issue with regard to mandatory nature of the provisions of Section 12 of the West Bengal Panchayat Act, 1973, was distinguished by Her Lordship by relying on decisions of the Superme Court passed under the SARFAESI Act and the Industrial Disputes Act, which are not relevant for the purpose of decision in this matter.

17. Under such circumstances, the order impugned is set aside.

18. The requisitionists shall be at liberty to bring another motion in accordance with law and the prescribed authority is directed to comply with the provisions 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.

19. It is made clear that the Sabhapati will not adopt any tactic to either delay or avoid the motion. If the motion is in order, the meeting will be held and the police authorities will provide adequate protection/assistance.

20. The police authorities are also duty bound to provide adequate protection to the Government officials while they perform their official and statutory duties.

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

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

23. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Smita Das De, J.)