16.11.2026
SL No.1
Court No.12
(gc)

MAT 1926 of 2026
CAN 1 of 2026
CAN 2 of 2026

Akhtari Khatun
Vs.
Mst. Farida Parvin & Ors.

Mr. Md. Sarwar Jahan,
Mr. Dipayan Kundu,
Mr. Avinaba Patra
... for the Appellant.

Mr. Mrityunjoy Chatterjee,
Mr. Anindya Ghosh,
Mr. Pronojit Roy
...for the Writ Petitioner/Respondent No.1.
Mr. Piyush Chaturvedi, Sr. Adv.,
Mr. Nilanjan Chatterjee,
Mr. Mukundalal Sarkar
...for the State.

1. CAN 1 of 2026 is an application for leave to appeal. The appellant is a member of Alinagar Gram Panchayat. She intervened in the writ proceeding. She was not added as a party respondent in the writ petition being WPA 31545 of 2026, in which the order impugned was passed. Thus, the application for leave to appeal has been filed.

2. Considering the submissions made on behalf of the appellant, we grant the leave.

3. Accordingly, CAN 1 of 2026 is allowed.

4. The appellant submits that the learned Single Judge failed to take into consideration the manner in which the District Magistrate and the Additional District Magistrate (Panchayat) proceeded in the

matter, while disposing of the appeal preferred by the writ petitioner and two others, challenging the order of disqualification that was issued by the Sub-Divisional Officer (Prescribed Authority).

5. By the order impugned, the Block Development Officer, Kaliachak-I Development Block, was directed to hold the election of the Pradhan of the concerned Gram Panchayat under Rule 6(1) of the West Bengal Panchayat (Constitution) Rules, 1975.

6. The factual background should be discussed by us, for proper appreciation of our view that, the result of the election of the new Pradhan (writ petitioner) which was held on November 13, 2026 pursuant to the order impugned, should not be given effect to and the elected Pradhan (writ petitioner) should not assume office as the Pradhan, until the issue of disqualification is finally decided by the Prescribed Authority as per the order of remand passed by the Appellate Authority.

7. The appellant was removed by majority vote from the office of the Pradhan.

8. Such removal had attained finality and, accordingly, a new Pradhan (Sajera Khatun) was elected. Three members, including the writ petitioner had faced disqualification by the order of the Sub-Divisional Officer (Prescribed Authority) under the provisions of the West Bengal

Panchayat Act, 1973 (hereinafter referred to as the "said Act") and they preferred a statutory appeal.

9. By an order dated August 17, 2026, the Additional District Magistrate (Panchayat), Malda directed the Block Development Officer and the Prescribed Authority not to declare the result of the election of the Pradhan (Sajera Khatun) and Upa-Pradhan at Alinagar Gram Panchayat. This direction pertains to the election of the Pradhan upon removal of the appellant. By another order dated August 24, 2026, the Appellate Authority once again stayed operation of the order of disqualification. Therefore, on the available records before us, which are not controverted, two interim orders were passed by the Appellate Authority. The first one being stay of the result of the election of Sajera Khatun and the second one being stay of the order of disqualification. These two interim orders continued till the appeal was disposed of by the Appellate Authority. From the order-sheet which has been annexed to the stay application, we find that such order was passed from September 21, 2026, but the same was communicated under a memo dated October 28, 2026. We also find from the records that by a communication dated October 14, 2026, the Block Development Officer (Prescribed Authority) was informed that the hearing had been concluded

with regard to the appeal and the decision had been reserved.

10. Sajera Khatun, who was elected as the Pradhan, but the result of whose election was withheld by an interim order of the appellate authority, resigned on October 6, 2026, that is, after the appeal was heard and reserved for decision.

11. By a communication dated October 6, 2026, the Block Development Officer asked Sajera Khatun to handover charge to the Executive Assistant, Alinagar Gram Panchyat within October 9, 2026. By a notice dated October 12, 2026, the date for election of the new Pradhan was fixed on October 27, 2026 at 3.00 p.m. On October 14, 2026, the Additional District Magistrate (Panchayat), Malda informed the Block Development Officer that further time was required by the Appellate Authority to review the matter and peruse the decisions of the Hon'ble Apex Court. Thus, the final decision had been reserved and was to be declared in due course. The decision of the Sub-Divisional Officer and the Prescribed Authority was stayed until the final verdict was to be issued.

12. At that juncture, the Block Development Officer postponed the election of the new Pradhan by a notice dated October 27, 2026, that is, on the date of the election itself. Admittedly, the order of the Appellate Authority was issued or at least served on October 28, 2026. Immediately thereafter, the

writ petitioner who claims to be the newly elected Pradhan approached the Vacation Bench praying that the meeting for the election of the new Pradhan should be held and adequate police force should be provided. On the submission of the state respondents, the learned Single Judge directed the meeting to be held with adequate police force and, accordingly, the meeting was held on November 13, 2026 when the writ petitioner was elected as the new Pradhan.

13. We are unable to appreciate the conduct of the respondent/authorities. On behalf of the authorities, submission was made before the learned Single Judge, that the meeting could be held on any day and the authorities were ready to hold the same. We cannot help, but question the logic behind the submission before the learned Court by the state respondents, when the Appellate Authority, who is the head of the District, was of the view that the election of the Pradhan(Sajera Khatun) should not be given effect to until the appeal was decided. The Appellate Authority had set aside the order of disqualification but had not exonerated the writ petitioner. The matter was remanded for fresh hearing, which means that the issue of disqualification was very much alive.

14. Under such circumstances, we are of the view that justice would be subserved and faith of the public

who are represented by the respective members in the Gram Panchayat would be restored if the second election of the Pradhan, upon resignation of Sajera is not given effect to. The same was held in not haste, on the strength of the order of the High Court. From the order impugned, we do not find that the factual background was considered by His Lordship. Whether these facts were brought forward before His Lordship, is also in doubt. Only on the submission of the State authorities that the election could be held on any day, such order was passed. The earlier interim orders, which were passed by the Appellate Authority were not considered. If the Appellate Authority was of the view that the Prescribed Authority (Block Development Officer) should not proceed with election of the new Pradhan or allow the new Pradhan to assume the office till the issue of disqualification was over, in that event the sudden change in the stand of the state authorities cannot be accepted.

15. The writ petitioner who has been newly elected, is facing a disqualification proceeding. We are of the view that even if the election has been held, the writ petitioner shall not function as the Pradhan until the issue of disqualification is decided by the competent authority, upon giving opportunity of hearing to the concerned parties.

16. The Secretary of the Gram Panchayat shall carry out the day to day functioning of the gram panchayat on the supervision of the Block Development Officer. If the writ petitioner is successful in the disqualification proceeding, she will take charge.

17. The Sub-Divisional Officer (Prescribed Authority) should dispose of the disqualification application within a month from the date of communication of this order.

18. The order impugned is modified to the above extent.

19. Accordingly, the appeal and the application are disposed of.

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

21. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)