

WPA/18233/2026
RABINDRA NATH NASKAR
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Moyukh Mukherjee, Adv.
Ms. Sagnika Banerjee, Adv.

....For the Petitioner

Mr. Nilanjan Bhattacharjee, Sr. Standing Counsel
Ms. Jayita Dhar Chakraborty, Jr. Govt. Adv.
Mr. Nilanjan Pal, Adv.

...For the Respondent-State

1. The petitioners and Respondent-State are represented by their respective learned counsel.
2. The subject-matter of challenge in the instant writ petition is the notice dated 14.7.2026 as issued by the jurisdictional Block Land & Land Reforms Officer, that is, the Respondent No.5 authority under section 4C of the West Bengal Land Reforms Act, 1955 ('Act of 1955' in short) whereby and whereunder the writ petitioner was directed to refrain himself from changing the nature and character of the relevant plot with a further direction to restore the water body to its original position.
3. At the time of hearing, Mr. Moyukh Mukherjee, learned advocate appearing on behalf of the writ petitioner, at the very outset, draws attention of this

Court to Page Nos.102 and 103 of the instant writ petition being a copy of the order dated 29.05.2023 as passed by a co-ordinate Bench of this Court in WPA 12867 of 2023 (Rabindra Nath Naskar vs. The State of West Bengal & Ors.). It is submitted by Mr. Mukherjee that in an identical case involving identical plot of land a co-ordinate Bench quashed similar such notice on the ground that principle of natural justice has not been observed. It is, thus, submitted by Mr. Mukherjee that in view of the said order of the co-ordinate Bench appropriate relief/reliefs may be granted to the writ petitioner in terms of the prayers made in the instant writ petition.

4. Per contra, Mr. Bhattacharjee, learned Senior Standing Counsel appearing for the Respondent-State submits before this Court that since the notice impugned has been passed under the provision of the Act of 1955 which is a specified Act within the meaning of section 2(r) of the West Bengal Land Reforms and Tenancy Tribunal Act, 1997 ('Act of 1997' in short), the instant writ petition is not maintainable in view of the provision of section 6 of the Act of 1997. It is further submitted by Mr. Bhattacharjee that an order under section 4C(5) of the Act of 1955 is an appealable order under section 54 of the Act of

1955. It is, thus, submitted by Mr. Bhattacharjee that on these two scores the instant writ petition may be dismissed.

- 5.** This Court meticulously perused the entire materials as placed before it. This Court has also given its due consideration over the submission of learned advocates appearing for the contending parties and this Court also meticulously gone through the provisions of Act of 1955 as well as the Act of 1997.
- 6.** Admittedly sufficient materials have been placed before this Court that a co-ordinate Bench of this Court in an identical case interfered with an identical notice on the ground of violation of principle of natural justice. This Court is well-aware that ordinarily a Writ Court does not entertain a writ petition in its prerogative writ jurisdiction when there is efficacious and alternative remedy. However those are subject to certain exceptions one of which is violation of principle of natural justice wherein despite availability of the alternative remedy the writ jurisdiction of the High Court can be invoked under Article 226 of the Constitution of India. In that perspective, this Court is in respectful agreement with the view of the co-ordinate Bench as passed in WPA 12867 of 2023.

7. In course of his submission, Mr. Mukherjee contended that in this case also while issuing the notice dated 14.07.2026 under section 4C(5) of the Act of 1955, no previous notice was served and the jurisdictional B.L.&L.R.O. most unilaterally restrained the writ petitioner from converting the plot in question with a further direction to restore the plot in question to its original position, that is, the water body. It is strongly contended that since principle of natural justice has been violated, this Court can grant relief by exercising its prerogative writ jurisdiction. With deepest respect to Mr. Mukherjee this Court is not at all inclined to exercise its high prerogative power of writ jurisdiction in view of provision of section 6 of the Act of 1997, which is quoted hereinbelow:-

“6. Subject to the other provisions of this Act, the Tribunal shall, with effect from such date as may be appointed by the State Government by notification in this behalf, exercise jurisdiction, power and authority in relation to—

(a) an order in original made by an Authority under a specified Act;

(b) an application complaining in action or culpable negligence of an Authority under a specified Act;

(c) an appeal against an order of the Mines Tribunal appointed under section 36 of the West Bengal Estates Acquisition Act, 1953;

(d) adjudication of disputes and applications relating to matters under any provision of a specified Act involving interpretation of any provision of the Constitution or of validity of a specified Act or of any other law for the time being in force;

(e) adjudication of matters, proceedings, cases and appeals which stand transferred from the High Court and other Authorities to the Tribunal in accordance with the provisions of this Act.”

8. Keeping in mind the aforementioned legislative provision if I look to the impugned notice dated 14.07.2026 it appears to this Court that such a notice has been issued by an authority under the Act of 1955 which is definitely a specified Act within the meaning of section 2(r) of the Act of 1997. In view of the aforementioned legislative provision, an order made under specified Act comes under the jurisdiction, power and authority of the Tribunal as as has been constituted under section 4 of the Act of 1997. In view of such specific statutory provision, this Court cannot entertain the instant writ petition. It appears to this Court that for some reason or other the provision of section 6 read with section 2(r) of the Act of 1997 was not placed before the co-ordinate Bench and thus, the said co-ordinate Bench could not consider that aspect in its proper perspective. In view of such, this Court is constrained to hold that the order dated 29.05.2023 as passed in WPA 12867 of 2023 (Rabindra Nath Naskar vs. The State of West Bengal & Ors.) is *per incurium*.
9. With the aforementioned observation, WPA 18233 of 2026 is **dismissed**.
10. No order as to costs.

(PARTHA SARATHI SEN, J.)