

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION**

APPELLATE SIDE

**RESERVED ON: 20.05.2025
DELIVERED ON: 21.05.2025**

PRESENT:

THE HON'BLE MR. JUSTICE GAURANG KANTH

W.P.A. 4772 OF 2025

SUKRITI WELLWISHERS ASSOCIATION & ANR.

VERSUS

THE STATE OF WEST BENGAL & ORS.

Appearance:-

**Mr. Partha Pratim Roy, Adv.
Mr. Anirban Das, Adv.
Mr. Samrat Chakraborty, Adv.**

.....For the Petitioners

**Mr. Srijan Nayak, Adv.
Mr. Atis Kr. Biswas, Adv.**

.....For the KMC

**Mr. Debjit Mukherjee, Adv.
Ms. Susmita Chatterjee, Adv.**

.....For the State.

JUDGMENT

Gaurang Kanth, J.

1. The Petitioner has filed the present writ petition challenging the issuance of E-Tender No. KMC/BS/O&M/PUT/02_02/2024-25 dated 22.01.2025,

floated by the Respondent Municipality for the operation and maintenance of Pay & Use Toilets situated at Tollygunj Metro Station and Akra Fatak.

2. Learned Counsel for the Petitioner submits that the Petitioner has been in long-standing occupation and has been operating and maintaining the said toilet facilities. It is further submitted that the Petitioner has already deposited the royalty charges in respect of the said toilets up to the fourth quarter of 2026. In support of his claim, reliance is placed on the orders passed by a Coordinate Bench of this Court in ***Sukruti Wellwishers Association vs. State of West Bengal, WPA 10947 of 2023 and WPA 17683 of 2024.***

3. The Respondent Corporation has filed an affidavit-in-opposition, to which the Petitioner has filed a rejoinder by way of an exception.

4. Learned Counsel appearing on behalf of the Respondent Corporation submits that the tender process has been initiated to ensure transparency and accountability in the allocation of public amenities. It is further submitted that a similar tender was issued for the period 2017–2018, which also included the toilet facility in question. The Petitioner had participated in that tender process but was unsuccessful. Despite this, the Petitioner refused to vacate the premises and obstructed the successful bidder from taking over the site.

5. It is contended that the Petitioner is currently occupying the toilet facilities without any legal authority and has continued to deposit royalty charges unilaterally, without any formal demand or consent from the Respondent Corporation. An FIR has been registered against certain contractual employees who allegedly accepted such royalty payments. The

Respondent asserts that the Petitioner has no vested right to continue with the operation and maintenance of the facilities and cannot claim any equity by virtue of such unilateral deposits.

6. This Court has heard the submissions advanced by the Learned Counsel for the parties and perused the materials placed on record.

7. A perusal of the documents reveals that certain royalty payments had been accepted by the Respondent Municipality in the past. However, pursuant to an internal inquiry, no accountability was fixed on the concerned personnel.

8. It is an admitted position that the Petitioner has deposited royalty fees up to the fourth quarter of 2026 in terms of the demands raised by the Corporation.

9. In view of the orders passed by a Coordinate Bench of this Court in ***Sukruti Wellwishers Association vs. State of West Bengal (WPA 10947 of 2023 and WPA 17683 of 2024)***, this Court is inclined to permit the Petitioner to continue with the operation and maintenance of the aforesaid toilet facilities until the end of the fourth quarter of 2026, for which the royalty charges have already been deposited.

10. It is clarified that the Respondent Corporation is at liberty to proceed with the ongoing tender process. However, the formal allotment of the toilet facilities located at Tollygunj Metro Station and Akra Fatak, pursuant to the said tender, shall only take effect upon expiry of the period up to which the Petitioner has deposited the royalty charges, i.e., post the fourth quarter of 2026.

11. With the aforesaid directions, the writ petition stands disposed of.

(Gaurang Kanth, J.)

SAKIL AMED (P.A.)

