

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 03.12.2025
DELIVERED ON: 03.12.2025

**CORAM:
THE HON'BLE ACTING CHIEF JUSTICE SUJOY PAUL
AND
THE HON'BLE JUSTICE PARTHA SARATHI SEN**

**M.A.T. 538 of 2023
Niranjan Roy
Vs.
State of West Bengal & Ors.**

Appearance:-

**Mr. Uday Sankar Chattopadhyay
Mr. Pronoy Basak
Ms. Trisha Rakshit
Ms. Aishwarya Dutta
Mr. Rajarshee Tah For the Appellant**

**Mr. Habibur Rahaman
Ms. Mehabuba Rahaman For the Respondent No. 10**

**Mr. Amal Kr. Sen, Ld. AAG
Mr. Jaladhi Das For the State**

JUDGEMENT (ORAL):

Sujoy Paul, ACJ.:-

1. Parties are represented through their respective learned counsel.
2. In this appeal, challenge is mounted to the order dated 15.03.2023 passed by a learned Single Judge in WPA 24119 of 2022 as well as the previous order dated 02.03.2023.

3. Learned counsel for appellant submitted that as per original petitioner's case, he was falsely implicated in a criminal case No.SSL No.502 of 2014. He was acquitted on 27.11.2018. He preferred a representation dated 19.10.2022 for taking action against erring police officials, who falsely implicated him. Since the said representation could not fetch any result, he filed WPA 24119 of 2022.
4. Contention of learned counsel for the appellant is that matter was taken up by learned Single Bench on 02.03.2023, when he was not present and was not put to notice. Learned Single Judge recorded a finding that there is some substance in the allegation of petitioner against Berhampore Police officials and therefore, an inquiry was directed to be conducted. In turn, on 15.03.2023, report was filed to show that a departmental proceeding is proposed against erring police officials including the present appellant. The Court expected Major Penalty proceedings shall be instituted against aforesaid police officials and inquiry shall be conducted in accordance with law.
5. Criticising this finding, learned counsel for appellant submits that the basic order dated 02.03.2023, wherein a finding was given against present appellant was passed without hearing him. The order dated 15.03.2023 is an outcome of a report, which is passed in obedience of previous order dated 02.03.2023. Thus, appellant ought to have been given an opportunity to file an affidavit-in-opposition before learned

Single Judge. He could have defended himself before learned Single Judge and taken a defence that even if criminal case resulted into acquittal, the investigating officer cannot be said to be at fault.

6. Learned counsel for appellant further submits that there is inordinate delay by the writ petitioner in approaching the learned Single Judge. The writ petitioner stood acquitted on 27.11.2018 and filed a representation after 4 years. Thereafter only he approached the writ Court. The aspect of delay has not been considered by learned Single Judge. Thus, impugned order may be interfered with.
7. Learned counsel for the writ petitioner/ on the other hand, supported the impugned order and urged that a plain reading of order dated 15.03.2023 shows that in the police report it was proposed to conduct a departmental inquiry. In furtherance thereof, learned Single Judge expected that Major Penalty proceeding be instituted and completed in accordance with the Rules. No fault can be found in the order of learned Single Judge.
8. No other point is pressed by learned counsel for the parties.
9. A plain reading of order dated 02.03.2023 passed in W.P.A. 24119 of 2022 shows that Court has recorded a finding, which reads as under:

“This Court is of the view that there is some and substance in the allegations of the petitioner against the Berhampore Police Officials.

In the above circumstances, this Court directs the I. G. of Police, West Bengal to cause an enquiry into the matter as to why the FIR was

registered or charge sheet was filed in the instant matter against the petitioner."

10. A plain reading of portion makes it clear that Court has recorded its finding about the correctness of the allegation of writ petitioner against police officials and accordingly, directed the IG of Police to cause an inquiry. In obedience thereof, a police report was prepared, whereby an inquiry was proposed. On this report, learned Single Judge passed the order dated 15.03.2023 and expected that a Major Penalty proceeding be initiated and completed against the present appellant.
11. There is no cavil of doubt that on 02.03.2023, when finding was recorded, which is reproduced hereinabove, the present appellant was not heard by learned Single Judge. This finding resulted into filing of report and a decision for initiation of departmental action. Apart from this, the question of delay in filing the petition is also not gone into. In the peculiar facts and circumstance of this case, in our opinion, the finding against present appellant could not have been recorded without affording him an opportunity to file his affidavit in opposition. Since this has not been done while recording a finding on 02.03.2023, which became foundation of the report of the proposed disciplinary action, we are inclined to interfere with the orders dated 02.03.2023 and 15.03.2023. Resultantly, both the orders are set aside.

12. W.P.A. 24119 of 2022 is restored to its original file and number.
13. The appellant shall file his affidavit in opposition within three weeks from today for which no separate notice will be required to be issued. Exception (if any), may be filed within two weeks therefrom.
14. Let the writ petition be listed in the 3rd week of January, 2026 before the learned Single Judge.
15. The learned Single Judge is requested to decide the writ petition in accordance with law afresh.
16. With the aforesaid, the appeal is disposed of.
17. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, ACJ.)

I agree.

(PARTHA SARATHI SEN, J.)