

Form No. J.(2)
ML-3
AB

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present:
The Hon'ble Justice Aniruddha Roy

W.P.A. 12860 of 2024

Ravi Kumar Ray
Vs.
Union of India & Ors.

For the petitioners	:	Mr. Shambhu Nath Ray, Advocate Ms. Sharmistha Roychowdhury, Advocate Ms. Munmun Das, Advocate
For respondent nos. 1 to 4	:	Mr. Soumak Bera, Advocate Mr. Ayanabha Raha, Advocate
For State respondent	:	Mr. Ashim Kumar Ganguly, Ld. AGP Mr. Dipanjan Datta, Advocate Ms. Raima Ganguly, Advocate Mr. Tarak Karan, Advocate
Heard on	:	August 4, 2025
Judgment on :	:	August 4, 2025

Aniruddha Roy, J.

1. On the prayer of the learned Additional Government Pleader time to file second report pursuant to the direction of this Court dated **June 23, 2025** on affidavit stands extended till today. The second report filed in court today is taken on record. Copy has been served.
2. Mr. Shambhu Nath Ray, learned advocate appearing for the petitioner, on instruction from his client submits that the petitioner shall not file

any exception to the said report and accordingly the petitioner shall proceed on the basis of the existing record.

3. Accordingly, the writ petition has been taken up for final consideration.

Facts :

4. The petitioner was an aspirant for the post of **C.T. (G.D.) in BSF – 2022 (for short, the said post)**. *Inter alia*, on the basis of a **Domicile Certificate** dated **June 2, 2022** issued by the State authority, **annexure R-2** at **page 18** to the report on affidavit affirmed by respondent no. 6 on July 17, 2025 (for short, the **second report of the State**), the petitioner participated in the selection process and received an appointment, though provisional, under a letter of appointment dated **August 28, 2023, annexure P-2** at **page 62** to the writ petition.
5. By a further communication dated **December 5, 2023, annexure P-4** at **page 68** to the writ petition, the offer of appointment offered to the petitioner was cancelled by the BSF authority. The reasons for cancellation were principally that the petitioner had passed Matriculation from Bihar State which was not the Domicile State and the said Domicile Certificate dated June 2, 2022 was cancelled by the State authority, who has issued the same. Challenging the said cancellation of offer for appointment the petitioner has filed this writ petition with the following principal prayer:

“a) A writ of Mandamus and/or nature of Mandamus commanding the respondents concerned and each one of them to

withdraw, rescind, cancel, forbear, quash and not to give effect or further effect to the impugned Office Memo No. Rectt/CT(GD)-2022/SB-Ptr/2023/4425-28 dated 5.12.2023 being the order of cancellation of offer of appointment for the post of Constable (GD) Exam. – 2022, pending disposal of the instant writ application;”

Submissions:

6. Mr. Shambhu Nath Ray, learned counsel appearing for the petitioner referring to **pages 35 to 47** to the writ petition submits that, the relevant sale deed by which the mother of the petitioner had purchased properties would show that, the properties were purchased in or around 2002 and since then more than fifteen years before the petitioner applied in the selection process, the parents of the petitioner are residing and domiciled in West Bengal. In support of the birth place of the petitioner being at West Bengal, learned counsel has relied upon a document at **page 22** to the writ petition. Learned counsel for the petitioner then has relied upon the document at **page 50** to the writ petition, to show the educational certificates were also issued from the local school at West Bengal.
7. Learned counsel Mr. Ray further submits that, cancellation of the Domicile Certificate by the State authority on **November 17, 2023** was never communicated to the petitioner and the petitioner was not aware of that at the relevant point of time, as such the petitioner was not in a

position to challenge the said cancellation of the Domicile Certificate by the State authority.

8. In the light of the above, the learned counsel for the petitioner submits that the said letter of cancellation of the offer of appointment, being impugned in this writ petition, dated **December 5, 2023** should be set aside and the appointment shall remain valid in favour of the petitioner.
9. Mr. Soumak Bera, learned advocate appearing for respondent nos. 1 to 4, the BSF authority, submits that, from the letter of cancellation of the provisional appointment dated **December 5, 2023** petitioner was aware of the cancellation of the Domicile Certificate by the appropriate State authority. He then refers to **annexure P-5** to the writ petition and submits, after becoming aware of the cancellation of the Domicile Certificate the petitioner applied before the appropriate State authority seeking certain related information under the Right to Information Act. It is therefore incorrect to allege that the cancellation of Domicile Certificate was not within the knowledge of the petitioner.
10. Learned counsel for the BSF then submits on the basis of the said cancellation of Domicile Certificate dated **November 17, 2023** at **page 21** to the report affirmed by respondent nos. 1 to 4 dated July 18, 2024, as it was communicated to the BSF authority, the offer of appointment was cancelled on **December 5, 2023**. Learned counsel for the BSF submits on the basis of the said communication dated **November 17, 2023** showing cancellation of the Domicile Certificate of

the petitioner they have taken steps and cancelled the offer of appointment issued to the petitioner.

11. Mr. Ashim Kumar Ganguly, learned Additional Government Pleader appearing for respondent no. 6/the State authority refers to various paragraphs from the said second report filed by the state authority. On a specific reliance on **paragraph 15** to the report he submits that, after the order of this court dated **June 23, 2025**, second time an enquiry was conducted and it was found that the petitioner has not fulfilled the criteria for being domiciled in West Bengal and on the basis of the said second enquiry the Domicile Certificate issued in favour of the petitioner was cancelled and was communicated to the BSF Authority on **November 17, 2023**. Paragraph 15 from the said report is quoted below:

“15. The Domicile Certificate issued on 02/06/2022, by the SDO, Barrackpore, bearing Certificate No. 010104221003225 was cancelled by the Order of SDO, Barrackpore by Memo No. 1636/Con/BKP of 17/11/2023 based on the Enquiry Report submitted by Deputy Commissioner (Special Branch), Barrackpore, Police Commissionerate when the Petitioner was not traced out and after the Order of the Hon’ble Court dated 23/6/25, further Enquiry held, during the period of second enquiry held afresh Petitioner was also not traced out in address given by him i.e. 468-

M, Store Block, Post – Kanchrapara, P.S. Bizpur, District North 24 Parganas, Kolkata – 743145 under Ward No. 22 of Kanchrapara Municipality, therefore, it has become difficult for the SDO to consider the case of the Petitioner, on the grounds:-

Firstly, no Birth Certificate from any Government authority could be gathered in favour of the Petitioner during two times enquiry conducted by Police authorities (Special Branch),

Secondly Applicant passed his Secondary Examination from Bihar School Examination Board, Patna,

Thirdly, during first enquiry, neither the Petitioner nor any of his family member(s) was traced out in the Address given i.e, at 468-M, Store Block, Post – Kanchrapara, P.S. Bizpur, District – North 24 Parganas, Kolkata – 743145 under Ward No. 22 of Kanchrapara Municipality but during Second time enquiry, Petitioner was not traced out but his family members were there but the Petitioner is not traced out during both times' enquiry,

Fourthly, DIB Report is also against the Petitioner.”

12. In addition, learned Additional Government Pleader has relied upon **pages 35 to 40** from the second report filed by the State authority to show that on fact finding enquiry at the relevant point of time it was

discovered that the petitioner did not fulfil the required criterion for being domiciled in West Bengal and as such Domicile Certificate issued on June 2, 2022 was cancelled by the respondent no. 6.

13. In the light of the above, learned Additional Government Pleader submits that, since the Domicile Certificate issued by the State stood validly cancelled, any step taken on the basis thereof should consequently be also cancelled. Accordingly, the BSF authority has cancelled the offer of appointment issued in favour of the petitioner.

Decision:

14. After hearing the rival contentions of the parties and upon perusal of the materials on record, at the threshold it appears to this Court that, none of the affidavits/reports filed on behalf of the State authorities/respondent no. 6 shows that the cancellation of the Domicile Certificate of the petitioner was done upon granting an **opportunity of hearing** to the petitioner. The cancellation of the said Domicile Certificate would have civil and evil consequences, as such a right of hearing was mandatorily required to be provided to the petitioner, which admittedly has not been provided.
15. The Domicile Certificate was issued on **June 2, 2022**. On the basis of the said Domicile Certificate the offer of appointment was issued on **August 28, 2023** in favour of the petitioner. The Domicile Certificate was cancelled and was communicated to BSF by the State authority on **November 17, 2023**. This chain of events shows that as on August 28, 2023 when the letter for offer of appointment was issued,

at page 62 to the writ petition, in favour of the petitioner, the Domicile Certificate dated June 2, 2022 was valid and in existence. The letter of offer of appointment was issued, though may be provisional and subject to further enquiries, but the cancellation of the said offer of appointment should have also been done judiciously. In the facts of this case, admittedly the BSF authority had cancelled offer of appointment on the strength of the communication of the State authority/respondent no. 6 dated November 17, 2023 under which it was communicated to the BSF authority that the Domicile Certificate was cancelled. Therefore, the BSF authority merely proceeded on the communication of the State authority dated November 17, 2023 and during the probationary period of the petitioner, his offer of appointment was cancelled.

16. This Court also finds from the prayers made in the writ petition that, there is no prayer for quashing the said decision of the respondent no. 6 cancelling the Domicile Certificate. However, on the face of the record it is clear and evident that **no opportunity of hearing** was granted to the petitioner before cancelling the said Domicile Certificate. The breach and violation of the principle of natural justice goes at and strikes the root of jurisdiction. This Constitutional Court while exercising its jurisdiction under Article 226 of the Constitution of India in exercising of its power under equity, can hold the reliefs for the ends of justice and an equitable outcome.

17. The principle of **moulding of relief** empowers this constitutional writ Court to adjust or reshape the remedies it can grant, even if the initial prayer is not fully suitable or has become inappropriate due to subsequent events. This doctrine allows this writ Court to tailor the relief to these specific circumstances of the case and ensure a just and equitable outcome. The core legal principle is to ensure that the final order reflects the actual means and equities of the situation, even if the original prayer was not perfectly align with the facts or has become outdated. In essence, the power of moulding of relief allows a writ Court to go beyond the strict wording of the initial prayers made before it and craft a remedy that best serves the interests of justice, fairness and specific facts of the case.
18. In the facts of this case, when the offer of appointment has already been issued on August 28, 2023 in favour of the petitioner and admittedly the cancellation of Domicile Certificate was not there on that date and additionally when it is evident from record that the Domicile Certificate was cancelled by the State authority in clear breach and violation of the principle of natural justice, equity demands restoration of the said offer of appointment dated August 28, 2023 in favour of the petitioner. After all the right under **Article 19(1)(g)** of the Constitution of India has been guaranteed in favour of the petitioner read with **Article 21** of the Constitution of India.
19. In view of the foregoing reasons and discussions, the **cancellation of the Domicile Certificate** by the respondent no. 6 along with said

communication dated **November 17, 2023** communicating the cancellation of the Domicile Certificate to the BSF authority, so far as the petitioner is concerned stands **set aside** and **quashed**.

20. Consequently, the letter of **cancellation of the offer of appointment** dated **December 5, 2023, annexure P-4** at **page 68** to the writ petition also stands **set aside** and **quashed**.

21. It is further directed that, the BSF authority shall take all further steps, strictly in accordance with law, from the stage of the said offer of appointment dated **August 28, 2023**.

22. This order shall also not create any right or equity in favour of the petitioner, in the event, the petitioner is found otherwise disqualified, in accordance with law, for being considered for the post at any stage subsequent to the said offer of appointment dated August 28, 2023.

23. The BSF authority *i.e.* respondent nos. 1 to 4 are directed to take all necessary and consequential steps in terms of the said offer of appointment dated **August 28, 2023** issued in favour of the petitioner at **page 62** to the writ petition expeditiously but in accordance with law.

24. With the above observations and directions, this writ petition W.P.A. **12860 of 2024** stands **allowed**, without any order as to costs.

25. Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)