

16.06.2025
Sl. No.35.
Ct. No.15
Suman

WPA 11834 of 2025

Dinesh Sukla
Versus
The State of West Bengal and Ors.

Mr. Atarup Banerjee
Mr. Samit Bhanja
Mr. Rajdeep Pramanik
Mr. Arka Roy
..for the petitioner

Mr. Ramkrishna Bhattacharyya
Ms. Busra Khatun
Md. Kashif Alam
Mr. Zeeshan Warish
..for respondent no.22.

Mr. Swapan Banerjee, AGP
Mr. Diptendu Narayan Banerjee
Mr. Biswajit Dutta
..for the State

Let the supplementary affidavit filed by the petitioner be kept on record.

Although this matter is of considerable importance, as it concerns the supersession of a democratically elected municipal body by the State through the impugned order, an extended inquiry is not necessary to set aside the actions by the State Government.

The brief factual background of the case is as follows:

On May 14, 2025, the Special Secretary to the Government of West Bengal, Department of Urban and Municipal Affairs, issued a letter seeking clarification addressed to the Chairman of Raghunathpur Municipality. The letter concerned a mass petition received from inhabitants of the municipality alleging disruption in the provision of civic services. The relevant portion of the said letter dated May 14, 2025, is quoted below:

“I am directed to forward herewith the mass petition received from the inhabitants of Raghunathpur Municipality expressing allegation on disruption in providing minimum civic services like cleaning drains, cleansing of streets, removal of solid waste etc. to the citizens of that municipal area.

In light of above, I am further directed to request you to send a clarification within 16th May, 2025 positively on the alleged disruption of civic services like cleaning drains, cleansing of streets, removal of solid waste etc. and also to furnish details of the steps taken by the Municipality to discharge its obligatory duties to provide civic services to its citizens”.

In response, by a letter dated May 17, 2025, the Chairman of the Municipality replied to the Special Secretary. The reply indicated that a group of councillors was intentionally obstructing the functioning of the Board of Councillors, thereby disrupting essential municipal services such as drain cleaning, street cleansing, and solid waste

removal. Despite the Chairman's continuous efforts to initiate various development projects, the obstructive group acted out of personal motives and vested interests. The letter detailed several incidents of obstruction by these councillors.

The District Magistrate of Purulia was also directed to conduct an enquiry. The enquiry report submitted by the District Magistrate highlighted several alleged instances of malpractice, corruption, and nepotism involving certain councillors.

Based on the Chairman's reply and the enquiry report, the State Government issued notification No. 349/UDMA-15011(22)/4/2025-LS-MASEC, dated May 19, 2025, exercising powers under Sub-Section (2) of Section 431 of the West Bengal Municipal Act, 1993. The notification declared Raghunathpur Municipality incompetent to discharge its statutory functions and ordered its dissolution with immediate effect. This was followed by notification No. 350/UDMA-15011(22)/4/2025-LS-MASEC, dated May 19, 2025, appointing the Sub-Divisional Officer of Raghunathpur as the Administrator of the Municipality for a period not exceeding six months or until newly elected councillors assume charge, whichever is earlier.

The writ petitioner, who challenges the supersession, appears to be one of the members of the Board of Councillors of Raghunathpur Municipality. Learned counsel for the petitioner submits that the State failed to comply with the procedural requirements of Section 431 of the West Bengal Municipal Act, 1993, in superseding the Municipality.

The State vehemently opposes the writ petition, contending that the Municipality failed to fulfill its statutory obligations. Various allegations against the councillors were received from multiple sources. On the basis of the Chairman's reply dated May 17, 2025, and the enquiry report by the District Magistrate, the State was justified in superseding the Municipality.

Mr. Swapan Banerjee, learned counsel for the State, further argues that the petitioner lacks locus standi to maintain the writ petition, as only one out of thirteen councillors has approached the Court. He submits that seven councillors had moved a no-confidence motion against the Chairman. Mr. Banerjee seeks time to file an affidavit disclosing all relevant records leading to the decision to supersede the Municipality.

Mr. Banerjee argues that the supersession was also justified by the enquiry conducted by the District Magistrate and that, on that basis, the State acted in public interest.

Interestingly, respondent no. 22, the then Chairman of the superseded Municipality, supports the State's action in superseding the Municipality.

After hearing the parties, I am unable to uphold the order of supersession and the appointment of the Administrator passed by the State.

To appreciate the controversy, Section 431 of the West Bengal Municipal Act, 1993, is reproduced below:

“431. Power of the State Government to intervene in case of gross neglect or serious irregularity.- (1) *If, in the opinion of the State Government, the Board of Councillors has shown gross neglect in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force, or has committed serious irregularities in the performance of such duties, the State Government may by order direct the Board of Councillors to show cause within the period specified in the order why it shall not be dissolved on grounds of charges mentioned in this order.*

(2) *If the Board of Councillors fails to answer the charges within the period specified in the order or within such further time as may be allowed by the State Government, or if the answers do not convince the State Government [or where*

more than two-thirds of the total number of Councillors holding office for the time being have, for any reason, resigned], the State Government may dissolve the Board of Councillors by an order published in the Official Gazette with effect from the date of the order.

- (3) When the order of dissolution has been passed, all the powers and functions vested upon the municipal authorities under this Act or any other law for the time being in force, shall be exercised by such person or persons to be designated as Administrator or Board of Administrators as the State Government may appoint for the purpose.
- (4) [A general election to the Municipality shall be held within six months of its dissolution] for the constitution of a new Board of Councillors immediately thereafter:]

[Provided that the new Board of Councillors shall continue only for the remainder of the period of which the dissolved Municipality would have continued had it not been dissolved:

Provided further that when the period for which the Board of Councillors would have continued is less than six months, it shall not be necessary to hold any elections for constituting a new Board of Councillors for such period].

[(5)***

(6) ***]

- (7) If any question arises as to what constitutes a gross neglect or a serious irregularity under this section, the opinion of the State Government as recorded in writing in the order, under this section shall

be final and conclusive and the same shall not be questioned in any court of law.”

A bare perusal of Sub-Section (1) of Section 431 reveals that the following preconditions must be satisfied by the State when issuing a show cause notice under Section 431(1):

(a) The State must form the opinion that the Board of Councillors has either grossly neglected its duties under the West Bengal Municipal Act, 1993, or committed serious irregularities in discharging such duties.

(b) The State may then issue an order directing the Board of Councillors to show cause, within a specified period, why it should not be dissolved on the grounds enumerated in the order.

In other words:

- The show cause notice must be addressed to the Board of Councillors.
- It must indicate the State’s intention to supersede the Municipality.
- It must disclose the grounds for supersession.

The relevant portion of the letter dated May 14, 2025, has already been quoted. It is evident that:

(a) The letter was addressed solely to the Chairman, not to the Board of Councillors.

(b) It did not reflect any intention of the State to supersede the Municipality.

(c) It did not contain the grounds or charges for supersession.

Instead, it appears to have been a mere request for clarification forwarded to the Chairman based on a representation by some local residents.

In my view, the letter dated May 14, 2025, cannot be construed as a valid show cause notice under Section 431(1) of the West Bengal Municipal Act, 1993.

Mr. Banerjee contends that as the Chairman is the head of the Board of Councillors, the letter dated May 14, 2025, addressed to him, ought to be treated as a show cause notice to the Board of Councillors. I find this contention untenable. Section 431(2) clearly mandates that the Board of Councillors, as a collective body, must respond to the show cause notice issued under Section 431(1), not the Chairman individually.

In the present case, it is manifest that the reply to the purported show cause notice — on which the

supersession order was founded — was given by the Chairman and not by the Board of Councillors.

Learned counsel for the petitioner rightly submits that under Section 14 of the West Bengal Municipal Act, 1993, the Board of Councillors is a body comprising all elected councillors and nominated members by the State.

The procedure for supersession is clearly prescribed under Section 431 of the West Bengal Municipal Act, 1993. Supersession of an elected local body is a serious measure and must strictly conform to the statutory framework. No deviation from the procedure prescribed therein is permissible.

Section 431 mandates that a supersession order can only be passed after the Board of Councillors has been served with a valid show cause notice, allowed to respond, and the State is not satisfied with such response.

In the present case, the State neither issued a show cause notice to the Board of Councillors nor considered any collective response from the Board before issuing the supersession order.

This Court, by order dated June 13, 2025, directed the State to produce all relevant records. The original records have been produced.

I am not persuaded to grant the State's prayer for an opportunity to file an affidavit, since all records have been submitted before this Court. Filing an affidavit at this stage would be futile and would not remedy the procedural defect.

Accordingly, the order of supersession dated May 19, 2025, issued by the Principal Secretary, Urban Development and Municipal Affairs Department, is hereby set aside. The order of appointment of the Administrator dated May 19, 2025, issued by the State authority, is also set aside.

This shall, however, not preclude the State from taking appropriate steps in accordance with law.

Accordingly, **WPA 11834 of 2025** is allowed.

Urgent photostat certified copy of this order, if applied for, be supplied to the learned advocates for the parties on usual undertakings.

(Kausik Chanda, J.)