

03.06.2025
Sl.No.13(DL)
Ct. No.39
srm

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(Vacation Bench)**

WP.ST 107 of 2025

Sudip Chanda

Versus

The State of West Bengal & Ors.

Mr. Soumya Majumdar, Sr. Adv.
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Ms. Sinjini Chakrabarti,
Mr. Arindam Shit

... for the Petitioner.

Mr. Swapan Banerjee,
Ms. Sumita Shaw,
Mr. Diptendu Narayan Banerjee,
Mr. Supriya Majumder,
Mr. Soumen Chatterjee

...for the State.

Mr. Mrinal Kanti Mukherjee

...for the Respondent No.6.

Supplementary affidavit as well as affidavit of service filed by the petitioner is kept with the record.

The petitioner is aggrieved of the transfer order dated May 7, 2025 and the subsequent release order dated May 27, 2025.

Mr. Majumdar, learned Senior Advocate appearing for the petitioner has candidly submitted that the petitioner is aggrieved with the order of transfer is generally a prerogative of the employer, if not tainted with biasness. According to the petitioner, in this case the

impugned transfer order as well as the release order of the petitioner is tainted with bias. Allegedly, in spite of the petitioner having protested vide his letter dated March 21, 2025 for incorporating any person with typical political motive into the transfer committee, the private respondent has been made a member therein. Hence allegedly, with typical political motive, the transfer of the petitioner has been made effected. Mr. Majumdar has sought for immediate stay of the order of transfer as wells as the release order of the petitioner.

Mr. Banerjee, learned Additional Government Pleader has represented the State. Firstly, Mr. Banerjee has taken out the point of maintainability of the instant writ petition and submits that in accordance with the Rules, the matter has to be first filed before the learned Tribunal and from there the same has to be transferred to this Court as the jurisdiction principally vests with the Tribunal to entertain the grievance of the petitioner, that the petitioner cannot directly come before this Court, to file a writ petition, to challenge the order of the department.

Secondly, he has submitted that after issuance of the release order there shall not be any scope of reverting back in terms of the prayer of the petitioner.

Thirdly, Mr. Banerjee submits that the transfer being the prerogative of the employer, the respondent is eligible to exercise its discretion. Mr. Banerjee has further pointed out that the transfer committee as constituted

vide order dated March 25, 2025 to which the petitioner has grievance, has been subsequently dissolved and there would not be any cause of action for the writ petitioner to move against the order of transfer on the said ground any further.

Mr. Banerjee has submitted that out of 26 employees who have been transferred by dint of a single order, 19 have already joined the transferred post and rest of the employees are scheduled to join by next one or two days. He says that the release order dated May 27, 2025 is with relation to all the employees who have been transferred including the petitioner, hence, there would not be any scope to stay that.

Mr. Mukherjee, learned Advocate for the respondent No.6 has raised point that after the release order being issued through the departmental procedure the entire papers have been transmitted to the transferred place of posting of the petitioner and it would be administratively inconvenient to deal with the petitioner in the office of the present posting any further. He has also mentioned with reference to Article 323A(e), that the instant application is barred to be moved under Article 226 of the Constitution, being an application against an order of transfer.

Having heard all the learned counsels for the respective parties and after perusal of records, it appears that firstly the Tribunal being on vacation, the instant matter has been filed before this Court which cannot be said to be beyond the provisions of law. The petitioner has

alleged of a biased and arbitrary transfer order being issued against him. The issue is required to be dealt with after filing of affidavits before the learned Tribunal. This Court does not enter into the merits of the matter. The entire issues, including that whether the impugned orders of transfer and release of the petitioner, should be stayed or not is thus being relegated to the learned Tribunal.

During the interregnum, however, in view of the exigency, that the petitioner cannot immediately move the learned Tribunal, the Court finds it proper to stay the release order dated May 27, 2025 so far as only the petitioner is concerned, for a limited period.

Let the Tribunal take up and consider the present application of the petitioner, being not influenced with whatever narrated above in this order on the day of reopening, i.e., 9th June, 2025, and decide independently.

The stay order shall remain effective till the date the learned Tribunal passes its order, in this regard.

With the aforesaid observation, the writ petition being WP.ST 107 of 2025 is disposed of.

There shall be no order as to costs.

All concerned parties shall act in terms of the copy of the order duly downloaded from the official website of this Court.

(Apurba Sinha Ray, J.)

(Rai Chattopadhyay, J.)