

25th June, 2025
(D/L No.32)
Ct. No.4
(SKB)

W.P.S.T.127 of 2025

Sudip Chanda
Versus
The State of West Bengal and others

Mr. Bikash Ranjan Bhattacharya, Sr. Adv.,
Mr. Soumya Majumdar, Sr. Adv.,
Mr. Bikram Banerjee,
Mr. Sudipta Dasgupta,
Ms. Sagarika Goswami,
Ms. Sinjini Chakrabarti
... for the petitioner.

Mr. Swapan Banerjee,
Mr. Arjun Roy Mukherjee,
Ms. Tuli Sinha
... for the State.

Mr. Mrinal Kanti Mukherjee,
Mr. Dipanjan Biswas
... for the respondent no.6.

1. The affidavit of service filed in court today is taken on record.
2. Heard the learned counsel for the petitioner and the learned counsel for the State.
3. The petitioner was transferred under an order dated 27.05.2025 from Departmental Headquarter to Kalchini Development Block at Alipurduar. During a holiday in the West Bengal Administrative Tribunal (in short 'SAT'). They approached the writ court by filing WPST 107 of 2025 complaining that the transfer order suffers from bias, in view of the composition of the Board dealing with the transfer.

4. The issue was considered by this court and an order was passed in the following terms:

“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.”

5. The matter thereafter was taken up by the SAT.

On 19.06.2025 the SAT has disposed of the O.A.

6. The learned senior counsel representing the petitioner submits that in spite of the specific mandate of the Division Bench in the earlier writ petition filed by the writ petitioner, extracted above, without filing of any affidavit-in-opposition, the Tribunal has proceeded to dispose of the original application. The further submission is that based on oral submissions of the learned counsel/(s), the order has been passed by the

Tribunal in teeth of the directions passed by the Division Bench, extracted above.

7. We have made a specific query to the learned counsel for the State as to whether affidavits were filed. He fairly submits that no affidavit was filed. He further submits that he is under instructions that subsequent to passing of the Tribunal's order, the order has been issued by the authorities releasing the petitioner from his current posting on 19.06.2025 and, therefore, the petitioner is required to join at the transferred place. He further submits that this order of transfer being a fresh order, post disposal of the matter by the Tribunal, the petitioner is required to assail the same before the SAT.
8. We have considered the rival submissions. The records reveal that the earlier writ petition filed by the petitioner was disposed of with a specific direction for dealing with the issue after filing of affidavit-in-opposition. The Tribunal has proceeded in the matter, however, without filing of affidavits, which fact is not in dispute.
9. For such procedural lapse, which is also in violation of the High Court order passed WPST 107 of 2025, committed by the Tribunal, we are of the opinion that the petitioner cannot be made to suffer. We, therefore, set aside the order of the

Tribunal and relegate the matter to the Tribunal for consideration afresh.

10. The petitioner would be at liberty to assail the order dated 19.06.2025 in the proceedings before the Tribunal. Enabling him to do so within a week, we direct that till such time, the application is filed and the issue is not considered by the Tribunal, the authority should not insist on compliance with the order dated 19.06.2025. We make it clear that if the petitioner wants to file an appropriate application, or for stay or any interim relief, the same is required to be filed within a week from date, to avail the benefit of this order.
11. The learned State counsel at this juncture submits that the State would be filing its affidavit before the SAT within 10 days.
12. In view of the situation emerging based on submissions of the parties, we only observe that it is expected that the Tribunal should proceed to consider the matter expeditiously and without granting any unnecessary adjournment to either of the parties.
13. We make it clear that the present order may not be considered as an expression of this court on the merits of the matter, and all issues are left open.

14. The writ petition is disposed of in the above terms.
15. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertakings upon compliance of all necessary formalities.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)