

Ct.No.1 ADSL 19.12.2025
Saikat 01
Mukherjee

MAT/2211/2025
with
IA NO: CAN/1/2025

ARNAB ADHIKARI AND ORS.
VS.
STATE OF WEST BENGAL AND ORS.

Mr. Partha Sarathi Bhattacharyya, Sr. Adv.
Mr. Shahan Shah, Adv.
Mr. Soumen Barman, Adv.
Mr. Md. Shahjahan, Adv.

...For the Appellants

Mr. Swapan Banerjee, A.G.P.
Mr. Diptendu Narayan Banerjee, Adv.

...For the Respondent-State

Per, **Sujoy Paul, ACJ.**

1. Affidavit-of-service filed is taken on record.
2. Mr. Bhattacharyya, learned senior counsel for the appellants/writ petitioners.
3. Mr. Banerjee, learned Additional Government Pleader for the State. His appearance is regularised.
4. With the consent, finally heard.
5. This intra-court appeal assails the order dated 15th December, 2025, whereby writ application filed by appellants/writ petitioners is dismissed by holding that at this stage writ petition is not maintainable against the recruitment process. Secondly, learned Single Judge recorded that if West Bengal Administrative Tribunal is not in a position to hear the matter because of non-availability of Bench, petitioners will be at liberty to take step in accordance with law.

6. In our considered opinion, this order dated 15th December, 2025, cannot sustain judicial scrutiny for the simple reason that as a rule of thumb it cannot be said that recruitment process cannot be called in question for any reason whatsoever. Only after examining the grounds raised by the appellants showing illegality of the recruitment process, an opinion can be formed whether writ can be entertained or not. Secondly, if selection was pertaining to State Government services, certainly its recruitment process can be called in question before the State Administrative Tribunal. As per section 3(q) read with section 14 and 19 of Administrative Tribunals Act, 1985, the recruitment process can also be called in question before the tribunal. If tribunal was not functional, it was obligatory on the part of this court to hear the matter otherwise the party will be remediless.
7. For these cumulative reasons, we set aside the order dated 15th December, 2025.
8. Restore WPA No.27821 of 2025 to its original number.
9. Registry shall list that WPA before appropriate regular Bench in the next week.
10. We have no doubt that learned Judge will hear and decide the matter in accordance with law.
11. It is made clear that this court has not expressed any opinion on the merits of the case.

12. With the aforesaid observation, the appeal is **allowed** and **disposed of**.

13. With the disposal of appeal, pending IA No: CAN/1/2025 is also **disposed of**.

14. Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(SUJOY PAUL, ACJ.)

(PARTHA SARATHI SEN, J.)