

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 29297 of 2025

**Jaya Das (Nayak) & Anr.
Versus
The State of West Bengal & Ors.**

For the petitioners	:	Mr. Billwadal Bhattacharyya, Sr. Adv. Mr. Sumitava Chakraborty Mr. Adiyta Mondal Mr. Wasim Dastidar
For the State	:	Mr. Ansar Mandal, AGP Ms. Somashree Dey
For the respondent no.3 :		Mr. Saptarshi Basu, Sr. Adv. Mr. Rohit Dey Mr. Sarbananda Sanyal
For the respondent nos. : 4 & 8.		Mr. Pratha Pratim Bhattacharya, Sr. Adv. Mr. Goutam Dey Ms. Ankita Ghosh
For the respondent no.5 :		Mr. Abhijit Mondal
Heard on	:	23.12.2025.
Judgment on	:	23.12.2025

Raja Basu Chowdhury, J (Oral):

1. Affidavit of service filed in Court today is taken on record.
2. By consent of the parties, the matter is taken up for final consideration.

3. The present petition has been filed, inter alia, challenging the election of the Chairman of the Board of Councillors of Tamralipta Municipality (hereinafter refer to as “said Municipality”), which the petitioners would contend has been held de hors the provisions of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) and the West Bengal Municipalities (Procedure and Conduct of Business) Rules, 1995 (hereinafter referred to as the “said rules”).
4. In this case, admittedly, on the Chairman and Vice-Chairman of the said Municipality resigning, the Governor by an order dated 18th November, 2025, upon receipt of information in that regard from the District Magistrate and the Executive Officer of the Municipality, had in exercise of powers conferred under Section 17(4) of the said Act, had been pleased to appoint Chanchal Kumar Khanra an elected Councillor from the constituency (ward) No. 20 of the said Municipality in the District of Purba Medinipur as Chairman to hold office as per the proviso to sub-Section (4) of Section 17 of the said Act, until new Chairman is elected under the provisions of sub-Section (3) of Section 17 of the said Act, and enters upon his office.
5. Mr. Billwadal Bhattacharyya, learned Senior Counsel representing the petitioners by drawing attention of this Court to the notice of Board of Councillors’ meeting dated 18th November, 2025 issued by the appointed Chairman would submit that the same is not in

accordance with the provisions of the said Act and the Rules framed thereunder. In this context, he has drawn attention of this Court to the provisions of Section 17(4) of the said Act and rules 6(2) (b), (d) and (e) and rule 4 of the said rules.

6. Mr. Basu, learned Senior Counsel appears on behalf of the Municipality. According to Mr. Basu, the new Chairman of the Board of Councillors on being elected as Chairman has already taken charge in terms of the resolution adopted by the Board of Councillors. Copy of the aforesaid resolution filed in Court is taken on record.
7. Mr. Bhattacharya, learned Senior Counsel appears for the respondent no.4 and the elected Chairman the respondent no.8 and supports the stand taken by Mr. Basu.
8. Heard the learned Counsel appearing for the respective parties and considered the materials on record.
9. The question that falls for consideration before this Court is whether the provisions of the said Act and the rules have been complied with while seeking election of the Chairman of the Board of Councillors of the Municipality. Admittedly, in this case, upon the Chairman and Vice-Chairman of the Board of Councillors of the said Municipality having resigned, the Governor had accordingly been pleased to pass an order dated 18th November, 2025 thereby, appointing Chanchal Kumar Khanra as Chairman in terms of Section 17(4) of the said Act with a specific direction that he shall

hold office so long as a new Chairman is not elected in terms of the proviso to said Section. To morefully appreciate the aforesaid provisions, the relevant provisions being Section 17(4) of the said Act and proviso thereto, are extracted hereinbelow:

“17(4) *In the case of casual vacancies in the offices of both the Chairman and the Vice-Chairman caused by death, resignation, removal or otherwise, the State Government may appoint by name one of the Councillors to be the Chairman who shall hold office until a Chairman, elected under the provisions of sub-section (3), [enters upon his office].*

[Provided that the Chairman appointed under this sub-section shall hold meeting of the Board of Councillors within thirty days from the date of taking over his charge for the purpose of election of the new Chairman under sub section (3) in such manner as may be prescribed.]”

10. It is, therefore, clear from the above, that the Chairman was appointed by the Governor is to hold office till such time a new Chairman is elected in accordance with the aforesaid proviso, which, *inter alia*, mandates that the said Chairman shall hold a meeting of the Board of Councillors within 30 days from the date of taking over his charge for the purpose of election of a new Chairman under sub-Section (3) in such manner as may be prescribed.
11. The parties are ad idem on the issue that the prescribed procedure for appointment of Chairman is laid down in the said

rules. I find that Clauses (b), (c), (d) and (e) of sub-rule (2) of rule 6 takes care of the eventuality at hand. To morefully appreciate the same, the relevant portions thereof are extracted hereinbelow:

“6(2) *In the case of any vacancy in the office of the Chairman caused by resignation,—*

...

(b) *if the resignation of the Chairman is accepted by the Board of Councillors, within seven days of such acceptance a meeting shall be convened by the Chairman; who is continuing in office under sub-section (4) of section 18 or, on his failing to do so, by the Vice-Chairman within seven days thereafter or, on his failing to do so, by any three Councillors within seven days thereafter for the purpose of election of the Chairman;*

(c) *the Vice-Chairman shall preside over such meeting if he is not a candidate for the post of the Chairman;*

(d) *if the Vice-Chairman is a candidate for the post of the Chairman, he shall declare so immediately, but shall continue to preside over such meeting until a President for that meeting is elected in the manner laid down in sub-rule (3) to (11) of rule 3 mutatis mutandis;*

(e) *the Vice-Chairman or the President elected under clause (d) of this sub-rule, as the case may be, shall conduct the election of the Chairman in the manner laid down in rule 4.”*

12. It may also be noted that the manner in which the election of the Chairman shall be held has also been provided in rule 4 of the said rules, which is also extracted hereinbelow:

“4. Election of the Chairman.—*The election of the Chairman of the Municipality shall proceed as follows:—*

(1) any Councillor present may propose the name of an elected member as a candidate for the office of the Chairman:

(2) no candidature shall be taken into consideration unless it has been seconded by a Councillor other than the proposer:

(3) if there is only one candidate duly proposed and seconded for election, the President shall forthwith declare such candidate to be elected;

(4) if names of more than one Councillor are proposed and seconded as Chairman, the Chairman shall be elected by vote by secret ballot by the Councillors present in the meeting;

(5) the President shall, under specification detailed below, cause the ballot papers to be distributed among the Councillors present.

Ballot paper for the election of the Chairman

<i>Counterfoil</i>	<i>Names of candidates</i>	<i>Space for placing of mark 'x'</i>
<i>Signature of the President</i>	<i>1)</i>	
	<i>2)</i>	
	<i>3)</i>	
<i>Signature of the Councillor</i>		

(6) the counterfoil shall bear the signature of the President and the Councillor in the space provided, while the ballot paper shall bear the signature of the President only on the back;

(7) the ballot paper shall be invalid if the mark 'x' is placed opposite the name of more than one candidate, or if it is so placed as to render it doubtful as to which candidate such mark is intended to apply;

(8) each Councillor, after placing the mark 'x' on the ballot paper, shall fold the same so as to conceal the vote recorded, and hand it over to the President;

(9) as soon as all the ballot papers have been delivered to the President, he shall, in the order hereinafter specified,—

(a) reject any ballot paper which does not bear the signature of the President;

(b) reject any ballot paper which is irregularly marked or unmarked;

(c) read out the names of the candidates against which the mark 'x' has been validly placed;

(d) count the votes; and

(e) declare the candidate to whom the largest number of votes has been given to be elected as the Chairman of the Municipality:

(10) in the case of equality of votes, the President shall have a casting vote;

(11) the President shall keep a record of the proceedings of the meeting in the Minute Book of the Municipality in continuation of the proceedings recorded by the officer and send one copy of the same to the Director of Local Bodies, West Bengal, who shall cause publication of the name of person elected as Chairman in the Official Gazette. The President shall also send the counterfoils and the ballot papers used for electing the Chairman in a sealed cover to the District Magistrate for preservation for a period of one year from the date of such election. A copy of the proceedings of the meeting shall also be sent to the District Magistrate.”

13. Having regard to the clear mandate of the procedure provided for, I find that once, an appointment is made in terms of Section 17(4) of the said Act, the said Chairman is duty bound to call for a meeting within 30 days. In the instant case, however, it may be noted that the said Chairman, in compliance of the said provision, had in fact called a meeting on 18th November, 2025. To morefully appreciate the purport of such notice, the relevant notice is extracted hereinbelow:



14. As would appear from the above, in the instant case, both the Chairman and Vice-Chairman having resigned, in terms of rules 6(2)(b), (d) and (e), it is also obligatory for the appointed Chairman to seek for election of the Chairman in the manner prescribed in rule 4 of the said rules. Though, Mr. Basu, learned Senior Counsel

by placing reliance on the resolution of the Board of Councillors dated 20th November, 2025 would submit that the election of the Chairman has been effected in accordance with the aforesaid rules, I am afraid and I am unable to accept such contention. Admittedly, in this case, there was no specific agenda provided for holding the election of the Chairman. The purported election of the Chairman, which has been noted in the form of a resolution dated 20th November, 2025, in my view, does not conform to the procedure laid down in the rule 4 of the said rules as there was no agenda in the notice to seek appointment of the Chairman, instead the same was only for consideration of the candidature of the appointment of Chairman for the post of the Chairman. The notice dated 18th November, 2025 indicates that the candidature of the appointment of Chairman shall be considered for election of Chairman.

15. In the light thereof, I am unable to hold that there has been a proper election of the Chairman of the Board of Councillors. Accordingly, by taking note of the resolution dated 20th November, 2025, I set aside the same, and I direct the Chairman so appointed by the order of Governor vide dated 18th November, 2025, to act in accordance with provisions of the said rules and take steps for holding an election for appointment of a Chairman in the manner prescribed positively within a period of 30 days from the date of communication of this order.

16. The writ petition is, accordingly, disposed of.

17. Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

sg
A.R. (Court)