

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 211 of 2026

Badartala Madhyamik Balika Vidyamandir & Anr.

Vs.

**The Principal Secretary, Land & Land Reforms and Refugee
Relief & Rehabilitation Department, Government of West
Bengal & Ors.**

For the Petitioners

: Mr. Debajyoti Basu, Sr. Adv.
Mr. Aditya Chakraborty
Mr. Triptimoy Talukder
Mr. Dibyendu Ghosh
Mr. Abir Bhattacharya
Mr. Abhiraj Tarafdar

..... advocates

For the State

: Mr. Chandi Charan De, AGP
Ms. Saswati Chatterjee

..... advocates

For the KMC

: Mr. Nilotpal Chatterjee
Mr. Suman Basu

..... advocates

For the respondent No.11

: Mr. Pratip Mukherjee
Mr. Purnankar Biswas

..... advocates

For the respondent No.12

: Mr. Abhratosh Majumder, Sr. Adv.
Mr. Srijib Chakraborty
Mr. Dipanjan Dutta
Mr. Washim Aktuir Dafadder
Mr. Soumyadeep Ghosh

..... advocates

Reserved on

: 28.04.2026

Judgment on

: 21.05.2026

Hiranmay Bhattacharyya, J.:-

1. The petitioner, a school, has filed this writ petition praying for issuance of a writ of Mandamus commanding the respondent authorities to allot/settle one acre land out of Dag No. 134 and for a direction upon the respondent authorities to conduct an enquiry/ administrative review of the entire process of sanction and execution of the long term lease granted in favour of the 12th respondent.
2. Petitioner states that since 2016, the authorities of the School approached the competent authorities for allotment of one acre of land out of Dag No. 134, J.L.No. 31 within mouza-Garden Reach for using the same as a playground by the girl students of the petitioner school as the said land is adjacent to the school. The District Inspector of Schools (SE), Kolkata submitted a comprehensive report dated 05.11.2020 confirming the petitioner's need and recommending that the land be settled in favour of the school. The School Education Directorate, by a communication dated 14.03.2024, reiterated that a proposal for settlement of one acre of the said land in favour of the petitioner school had been transmitted to the Additional Secretary, Government of West Bengal for necessary action. Petitioner came to learn that in the meantime, the 1st respondent has purportedly accorded a sanction in favour of the 12th respondent company for grant of lease for a period of 99 years over a large area comprising several plots including plot No. 134. Being aggrieved by the action of the respondent authorities, the petitioner has approached this Court.
3. Mr. Majumdar, learned Senior Advocate for the 12th respondent raised an objection against the entertainability of the writ petition. He contended that the petitioner has challenged the grant of lease in favour of the 12th respondent in exercise of powers under Section 4B (2) of the West Bengal Land Reforms Act, 1955. He further contended that the West Bengal Land Reforms Act, 1955 and the West Bengal Estates Acquisition Act, 1953 are "Specified Acts" under Section 2(r) of the West Bengal Land Reforms and

Tenancy Tribunal Act, 1997 (for short “the 1997 Act”). He submitted that the issues raised in this writ petition falls within the domain of the West Bengal Land Reforms and Tenancy Tribunal. Mr. Majumdar placed reliance upon the decision of the Constitution Bench in the case of **L. Chandra Kumar vs. Union of India** reported at **(1997) 3 SCC 261** and contended that the Tribunal has been vested with the jurisdiction to act as the Court of first instance in respect of the matters falling within the domain of the Tribunals constituted under Articles 323A and 323B of the Constitution. Mr. Majumdar placed reliance upon a judgment of this Court delivered on 20.03.2026 in **WPA No. 25183 of 2025** the case of **Gour Chandra Ghosh & Ors. vs. State of West Bengal and others** in support of his contention that the Tribunal created under the 1997 Act is an effective alternative remedy which should not be allowed to be bypassed.

4. Mr. Majumdar further contended that since the petitioner has challenged the grant of lease in favour of the 12th respondent, such a challenge has to be made before the Civil Court and not before the writ court. In support of such contention he placed reliance upon the decision of the Hon’ble Supreme Court in **Asset Reconstruction Company (India) Limited vs. S.P. Velayutham and others** reported at **(2022) 8 SCC 210**.
5. Per contra, Mr. Basu, learned Senior Advocate for the petitioner placed reliance upon the guidelines relating to upgradation of schools and submitted that such guidelines mandate that a playground must be made available to the students. He also submitted that the requirement of a playground is mandatory as per the provisions of the Right of Children to Free and Compulsory Education Act, 2009.
6. Mr. Basu contended that the petitioner has not challenged the grant of lease in favour of the 12th respondent but has sought for a review of the process of sanction and execution of the long term lease.
7. Mr. Basu contended that the petitioner has neither challenged any order passed by an Authority under the specified Acts nor has alleged inaction or

culpable negligence on the part of the authorities under a specified Act. He, thus, contended that the dispute raised in this writ petition does not fall within the jurisdiction of the Tribunal as provided under Section 6 the 1997 Act.

8. Mr. Basu further contended that even assuming that the 1997 Act provides a remedy, the High Court can still exercise jurisdiction inspite of availability of alternative remedy and in support of such contention he placed reliance upon the decisions of the Hon'ble Supreme Court in the case of **Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Ors.** reported at **(1998) 8 SCC 1** and **Godrej Sara Lee Ltd. vs. Excise and Taxation Officer cum Assessing Authority and others** reported at **2023 SCC Online SC 70**.
9. Heard the learned advocates for the parties only on the issue of maintainability of this writ petition and perused the materials placed.
10. The Hon'ble Supreme Court in **Whirlpool Corporation (supra)**, reiterated the proposition of law that alternative remedy shall not operate as a bar in at least three contingencies, namely, where the writ petition has been filed for enforcement of any of the Fundamental Rights or where there has been a violation of the principles of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.
11. The Hon'ble Supreme Court held thus-

“14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for “any other purpose”.

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a

writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged. There is a plethora of case-law on this point but to cut down this circle of forensic whirlpool, we would rely on some old decisions of the evolutionary era of the constitutional law as they still hold the field.”

12. The power of the High Court under Article 226 of the Constitution is plenary in nature and considering the facts of the case, the High Court has the discretion either to entertain or not entertain a writ petition, if an alternative efficacious remedy is available.
13. It is now judicially settled that when a statutory forum is created by law for redressal of grievances, the High Court may not entertain a writ petition ignoring the statutory dispensation.
14. In ***Thansingh Nathmal vs. Superintendent of Taxes*** reported at **AIR 1964 (SC) 1419**, the Constitution Bench of the Hon’ble Supreme Court reiterated the rule of self-imposed restraint that the High Court will not entertain a writ petition if an effective remedy is available to an aggrieved person.
15. The Hon’ble Supreme Court held thus-

“7. ...Ordinarily the Court will not entertain a petition for a writ under Article 226, where the petitioner has an alternative remedy, which without being unduly onerous, provides an equally efficacious remedy. Again the High Court does not generally enter upon a determination of questions which demand an elaborate examination of evidence to establish the right to enforce which the writ is claimed. The High Court does not therefore act as a court of appeal against the decision of a court or tribunal, to correct errors of fact, and does not by assuming jurisdiction under Article 226 trench upon an alternative remedy

provided by statute for obtaining relief. Where it is open to the aggrieved petitioner to move another tribunal, or even itself in another jurisdiction for obtaining redress in the manner provided by a statute, the High Court normally will not permit by entertaining a petition under Article 226 of the Constitution the machinery created under the statute to be bypassed, and will leave the party applying to it to seek resort to the machinery so set up.” (emphasis supplied)

16. The Hon'ble Supreme Court in **PHR Invent Educational Society Vs. UCO Bank and Ors.** reported at **(2024) 6 SCC 579** after noticing that despite its repeated pronouncements with regard to the High Courts ignoring the availability of statutory remedies under the RDBFI and SARFAESI Acts and exercising jurisdiction under Article 226 of the Constitution of India, held that the High Courts will not entertain a petition under Article 226 of the Constitution of India if an effective remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.

“37. It could thus clearly be seen that the Court has carved out certain exceptions when a petition under Article 226 of the Constitution could be entertained in spite of availability of an alternative remedy. Some of them are thus:

- (i) where the statutory authority has not acted in accordance with the provisions of the enactment in question;*
- (ii) it has acted in defiance of the fundamental principles of judicial procedure;*
- (iii) it has resorted to invoke the provisions which are repealed; and*
- (iv) when an order has been passed in total violation of the principles of natural justice.*

38. It has however been clarified that the High Court will not entertain a petition under Article 226 of the Constitution if an effective alternative remedy is available to the aggrieved person or the statute under which the action complained of has been taken itself contains a mechanism for redressal of grievance.”

(emphasis supplied)

17. From the aforesaid discussion, it follows that if the alternative remedy available to an aggrieved person is an effective one, a writ petition may not be entertained ignoring the statutory dispensation. In other words, whether the alternative remedy is an effective one or not would be one of the guiding as well as relevant factors in deciding the manner in which the High Court should exercise its discretion.
18. The Hon'ble Supreme Court in **L. Chandra Kumar (supra)** held that the power of judicial review over legislative action vested in the High Courts under Article 226 and before the Supreme Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of the High Courts and the Supreme Court to test the Constitutional validity of legislations can never be ousted or excluded (*see para 78 of L.Chandra Kumar's case*).
19. It was further held that the power vested by the High Courts to exercise judicial superintendence over the decisions of all Courts and tribunals within their respective jurisdictions also forms part of the basic structure of the Constitution. (*see para 79 of L.Chandra Kumar's case*).
20. The Hon'ble Supreme Court held that so long as the jurisdiction of the High Courts under Articles 226/227 and that of the Supreme Court under Article 32 is retained, there is no reason why the power to test the validity of legislations against the provisions of the Constitution cannot be conferred upon Administrative Tribunals created under the 1985 Act or upon Tribunals created under Article 323B of the Constitution. (*see para 81 of L.Chandra Kumar's case*).
21. The contention that the Tribunals should not be allowed to adjudicate upon matters where the vires of a legislation is questioned and whether they should restrict themselves to handling matters where constitutional issues are not raised stood rejected in **L. Chandra Kumar (supra)**. The Hon'ble Supreme Court observed that to hold that the Tribunals have no power to

handle matters involving constitutional issues would not serve the purpose for which it was constituted. On the other hand, to hold that all such decisions will be subject to the jurisdiction of the Division bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls, will serve two purposes. While saving the power of judicial review of legislative action vested in the High Courts under Articles 226/227 of the Constitution, it will ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal. The High Court will also have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matters. (See paragraph 90 of *L.Chandra Kumar's case*)

22. The Hon'ble Supreme Court held that the Tribunal cannot act as a substitute for the High Courts and the Supreme Court and their function is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. In paragraph 99 of the said reports, it was held thus-

"99. In view of the reasoning adopted by us, we hold that clause 2(d) of Article 323-A and clause 3(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which

creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.”
(emphasis supplied)

23. Section 6 of the 1997 Act deals with the jurisdiction, power and authority of the Tribunal. Section 6 states that the Tribunal shall with effect from such date as may be appointed by the State Government by notification in that behalf, exercise jurisdiction, power, and authority in relation to any order made by an authority under a specified Act; an application complaining of inaction or culpable negligence of an authority under a specified Act; an appeal against an order of the Mines Tribunal appointed under Section 36 of the West Bengal State Acquisition Act 1953; applications relating to matters under any provision of a specified Act or matters relating to any constitutional validity of any Act under the provisions of a specified Act; and adjudication of matter, proceedings, cases and appeals with stood transferred from the High Court and other authorities to the Tribunals in accordance with the provisions of this Act.
24. Section 7 of the 1997 Act states that the Tribunal shall, with effect from the date appointed by the State Government under Section 6 exercise all the jurisdiction, power and authority exercisable immediately before that date by any court including the High Court, except the writ jurisdiction by a Division Bench of the High Court but excluding the Supreme Court for adjudication or trial of disputes and applications relating to land reforms and matters connected therewith or incidentally thereto and other matters arising out of any provisions of a specified Act.
25. Section 8 deals with the exclusion of jurisdiction of Courts. It states that on and from the date from which the jurisdiction, power and authority become exercisable under that Act by the tribunal, the High Court except where that Court exercises writ jurisdiction under Articles 226 and 227 of the Constitution by a Division Bench or any Civil Court except the Supreme

Court shall not entertain any proceeding or application or exercise any jurisdiction, power or authority in relation to adjudication or trial of disputes or applications relating to land reforms or any matter connected therewith or incidental thereto or any other matter under any provision of a specified Act.

26. Upon a conjoint reading of Sections 6, 7 and 8 of the 1997 Act, this Court finds that the jurisdiction, power and authority which used to be exercised by any Court including the High Court except the writ jurisdiction under Articles 226 and 227 of the Constitution exercised by the Division Bench of the High Court prior to the date appointed by the State Government under Section 6 of the 1997 Act in respect of matters relating to land reforms and other matters arising out of any provisions of a specified Act have been vested upon the Tribunal.
27. It, therefore, follows that the adjudication that used to be made by this Court under Article 226/227 as a Court of first instance in respect of the matters specifically provided for in Section 6 has been taken away from the jurisdiction of the High Court and entrusted to the Tribunal set up under the 1997 Act.
28. It is now well settled that the Tribunals will act as a Court of first instance and shall perform a supplementary role in discharging the powers conferred under Articles 226/227 and it will not be open to the litigants to directly approach the High Court bypassing the jurisdiction of the Tribunal.
29. From the aforesaid discussion it follows that the jurisdiction of the single bench of the High Court under Article 226 and 227 of the Constitution of India as a Court of first instance has been expressly excluded by virtue of Section 8 of the 1997 Act in respect of matters falling within the jurisdiction, power and authority of the WBLRTT but the jurisdiction of the Division Bench of the High Court under Articles 226 and 227 of the Constitution of India has been retained.

30. This Court in ***Gour Chandra Ghosh (supra)*** after noting various decisions of the Hon'ble Supreme Court as well as this Hon'ble Court as well as the provisions of the 1997 Act held that the machinery created under the 1997 Act is an effective alternative remedy.
31. Turning back to the facts of the case in hand, this Court finds that the petitioner has prayed for a direction upon the respondent authorities to allot one acre of land out of plot no. 134. An indenture of Lease was executed on 03.12.2024 under Section 4B(2) of the West Bengal Land Reforms Act, 1955 in favour of the 12th respondent in respect of several plots of land including plot no. 134.
32. The relief sought for by the petitioner in this writ petition, if granted, would have a direct bearing on the lease deed executed in favour of the 12th respondent in exercise of powers under Section 4B(2) of the 1955 Act.
33. Mr. Basu would contend that since the Standing Committee of the Cabinet on Industries, Infrastructure and Enterprises granted approval as indicated in the Memo dated 29.07.2021, the matter in issue does not fall within the domain of the Tribunal constituted under the 1997 Act.
34. This Court is not inclined to accept the aforesaid submission of Mr. Basu for the reasons as stated hereinafter.
35. The Memo dated 29.07.2021 records that His Excellency the Governor of the State of West Bengal was pleased to accord sanction to the proposal for Long Term Settlement of land as specifically mentioned in the schedule. The initiation of the process of settlement of land was by way of the proposal seeking sanction under Section 4B(2) of the West Bengal Land Reforms Act, 1955.
36. The Indenture of Lease dated 03.12.2024 between the Governor of the State of West Bengal and the 12th respondent was signed by the Additional District Magistrate (LR) & District Land and Land Reforms Officer, 24 Parganas (South) who is an authority under the 1955 Act.

37. Petitioner sought for an allotment of one acre of land in respect of Plot No. 134. The said Plot no. 134 forms the subject matter of the aforesaid Indenture of Lease.
38. Petitioner seeks a direction upon the respondent authorities to review the entire process of sanction and execution of the long term lease.
39. Though the petitioner has not prayed for cancellation of the lease deed, but has prayed for review of the decision making process in connection with the grant of sanction and execution of the long term lease. Thus, the petitioner has questioned the entire decision making process in respect of a matter under a specified Act. The prayer for allotment of one acre of land under Dag No. 134 would undoubtedly depend upon the fate of the enquiry into the aforesaid decision making process.
40. Mere issuance of the Memo dated 29.07.2021 with the concurrence of the Standing Committee of the Cabinet on Industries etc. would not take the matter beyond the jurisdiction of the Tribunal.
41. Issuance of various letters by the School Education Department are only recommendations for allotment of land. Such authorities are not competent authorities for settlement of land in favour of the petitioner school. Thus, such letters do not have any bearing on the decision as to the entertainability of this writ petition wherein the principal issue relates to settlement of land.
42. To the mind of this Court, the dispute raised by the petitioner relates to matters under the provision of the West Bengal Land Reforms Act, 1955 which is a "Specified Act" under Section 2(r)(ii) of the 1997 Act. The said dispute is squarely covered within the first limb of Section 6(d) of the 1997 Act.
43. In **Godrej Sara Lee (supra)**, returns under the VAT Act were filed declaring the goods to fall under a particular Entry and the Assessing Officer accepted the classification of goods and the rate of tax as stated by the appellant

therein. Subsequently the revisional authority sought to revise the said assessment. The jurisdiction of the revisional authority was questioned.

44. In **Godrej Sara Lee (supra)**, the Hon'ble Supreme Court placed reliance on two earlier decisions wherein it was held that whether a particular item falls within an entry in a sales tax statute raises a pure question of law and if investigation into facts is unnecessary, the High Court could entertain a writ petition in its discretion even though alternative remedy was not availed of.
45. After noting the provisions of Section 34 of the VAT Act the Hon'ble Supreme Court observed that the first proviso imposed a restriction on exercise of *suo motu* power, if an issue had been settled inter alia by an appellate authority. Taking note of the admitted factual position that the decision of the Tribunal had attained finality, the Hon'ble Supreme Court observed that once the issue stands finally concluded, the decision binds the State, a fortiori, the revisional authority. The Hon'ble Supreme Court after observing that the issue raised therein being a pure question of law, held that the writ petition ought not to have been thrown out at the threshold.
46. The said decision being distinguishable on facts cannot come to the aid of the petitioner.
47. In **Asset Reconstruction Company (supra)** the Hon'ble Supreme Court held that if a party questions the very execution of a document, his remedy will only be to go to the Civil Court. The observations made by the Hon'ble Supreme Court that examining whether the registering authority did something in the manner required by law or otherwise, it falls within the jurisdiction of the High Court under Article 226 of the Constitution cannot come to the aid of the petitioner as it is well settled that the Tribunal shall act as the Court of first instance in respect of matters falling within the domain of the Tribunal. This Court has already observed that the dispute involved in this writ petition falls within the domain of the Tribunal.
48. For all the reasons as aforesaid the writ petition stands dismissed as not entertained and the petitioners are left free to approach the appropriate

forum in accordance with law. It is, however, made clear that this Court has not gone into the merits of the claims and counter claims of the respective parties and all the observations made hereinbefore are only for the purpose of supporting the ultimate conclusion and the same shall not prejudice the parties in future proceedings. There shall be, however, no order as to costs.

49. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)