

Form No. J(2)

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction
(Appellate Side)

W.P.A. NO 2350 OF 2026

SAMIT PRADHAN

VS.

THE STATE OF WEST BENGAL & OTHERS

BEFORE: THE HON'BLE JUSTICE SAUGATA BHATTACHARYYA

For the Petitioner

:Mr. Suman Banerjee, Adv.
Mr. Sayan Sinha, Adv.
Mr. Kausheyo Roy, Adv.
Ms. Alisha Das, Adv.

For the PSC

:Ms. Piyali Sengupta, Adv.
Mr. Victor Chatterjee, Adv.

Hearing concluded on

: 26.02.2026

Judgment on

: 26.02.2026

SAUGATA BHATTACHARYYA, J.:

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. Question arises for consideration in this writ petition is whether during pendency of Original Application before the West Bengal Administrative

Tribunal (for short, “Tribunal”) writ petition before the Single Bench of this Court is maintainable or not as Tribunal is not functioning.

3. It is submitted by learned advocate representing the petitioner that challenging a punishment order dated 2nd January, 2025 an Original Application was filed before the Tribunal and same remains pending but Benches under the Tribunal are not available which prompted the petitioner to approach the Single Bench of this Court on self-same cause of action.
4. This Court has already decided in a writ petition being **WPA 27327 of 2025 (Md. Masidul Islam Vs. The State of West Bengal & Ors.)** vide judgment dated 13th January, 2026 relying upon dicta of Seven Judges Bench of the Hon’ble Supreme Court in **L. Chandra Kumar Vs. Union of Indian & Others**, reported in **(1997) 3 SCC 261** that in the event Tribunal constituted under Article 323A of the Constitution of India becomes non-functional writ petition before the Single Bench of this Court is maintainable. This Court also relied upon judgments of the Hon’ble Supreme Court reported in **(2003) 6 SCC 581 (T.K. Rangarajan Vs. Government of T.N. & Others)** and **(2020) 6 SCC 1 (Rojer Mathew Vs. South Indian Bank Limited represented by its Chief Manager & Others)**. But, in the present case, situation is completely different as Original Application is pending before the Tribunal and on self-same cause of action present writ petition is filed before this Court.
5. In **L. Chandra Kumar** (supra) law was enunciated thereby declaring 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 Administrative Tribunal Act, 1985 and the “exclusion of jurisdiction” clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B were, to the same extent, declared to be unconstitutional. It was also observed in paragraph 99 that 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. According to the observations of the Supreme Court in paragraph 99 of **L. Chandra Kumar** (supra), jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution 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.

6. Situation which was prevailing in the writ petition being **WPA 27327 of 2025 (Md. Masidul Islam Vs. The State of West Bengal & Ors.)** was different from present case as in that case petitioner did not prefer Original Application before the Tribunal. In the present case, petitioner filed an Original Application before the Tribunal which is still pending. Therefore, if the petitioner has grievance relating to non-consideration of said Original Application pending before the Tribunal, remedy lies before the Division Bench of High Court in terms of ratio of **L. Chandra Kumar** (supra) wherein judicial superintendence of High Courts over Tribunals was restored but before the Division Benches and not before the Single Benches.

7. Petitioner has relied upon judgment of the Hon'ble Division Bench reported in **2022 SCC OnLine Cal 4116 (Mobile Store Limited Vs. Joint Commissioner, Commercial Taxes and Ors.)** and it is contended that when Tribunal is non-functional litigant can approach Single Bench of this Court. Ratio of **Mobile Store Limited** (supra) does not come in aid of the petitioner since in **Mobile Store Limited** (supra) the Hon'ble Division Bench was considering pendency of an application before the West Bengal Taxation Tribunal which is not a Tribunal constituted under Article 323A of the Constitution of India where dicta of **L. Chandra Kumar** (supra) does not apply.
8. Hence, writ petition is found not maintainable before this Court and same is dismissed.
9. However, this order shall not preclude the petitioner to take steps in accordance with law.
10. There shall be no order as to costs.
11. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Saugata Bhattacharyya, J.)