

WPA/4785/2026

**TARUN KANTI MONDAL AND ORS.
VS.
STATE OF WEST BENGAL AND ORS.**

Mr. Subhadeep Chatterjee, Adv. (Through V.C.)
Ms. Arpita Kundu, Adv.
Mr. Bithin Mandal, Adv.
Mr. Nilabha Roy, Adv.

....For the Petitioners

Mr. Nilanjan Bhattacharya, Sr. Standing Counsel
Ms. Jayita Dhar Chakraborty, Adv.

...For the Respondent-State

Mr. Anup Dasgupta, Adv.

...For the Respondent No.7

1. The contending parties to the instant writ petition are represented by their respective learned counsel.
2. The subject-matter of challenge in the instant writ petition is the order dated 11.2.2026 as passed by the Respondent No.4 in a proceeding under section 10(3) of the West Bengal Highways Act, 1964 ('Act of 1964' in short). At the time of hearing, learned advocate appearing on behalf of the writ petitioners at the very outset draws attention of this Court to Page No.26 of the instant writ petition being a copy of impugned order dated 11.2.2026. Attention of this Court is also drawn to Page No.23 of the instant writ petition being copies of the previous orders dated 11.6.2025, 3.9.2025 and 26.11.2025, as passed by

the Respondent No.4 authority in the selfsame proceeding under section 10(3) of the Act of 1964.

- 3.** It is submitted on behalf of the writ petitioners that from the earlier orders it would reveal that almost on all the occasions respondents to the said proceeding, who are writ petitioners before this Court, were present and the matter was posted on 14.1.2026. It is further submitted that it is the specific case of the petitioners that on 14.1.2026 the hearing before the Respondent No.4 authority could not take place on account of a holiday and all on a sudden the Respondent No.4 authority took up the hearing of the said proceeding under section 10(3) of the Act of 1964 on 11.2.2026 and passed an order of removal of encroachment in absence of the present writ petitioners who are opposite parties in the said proceedings.
- 4.** It is submitted that on account of violation of principle of natural justice the writ petitioners approached this Court by filing the instant writ petition instead of filing an appeal before the jurisdictional District Magistrate under section 10(4) of the Act of 1964. It is, thus, submitted on behalf of the writ petitioners that it is a fit case for granting relief as prayed for in the instant petition.
- 5.** Mr. Bhattacharjee, learned senior standing counsel for State vehemently opposed the prayer as made by

the learned advocate for the petitioners. It is submitted that the writ petitioners have every opportunity to assail the impugned order before the jurisdictional District Magistrate under section 10(4) of the Act of 1964 and for not doing the same and also for not availing the alternative, suitable and statutory remedy, the instant writ petition may be dismissed.

6. Learned advocate appearing on behalf of the Private Respondent No.7 supports the impugned order. He also echoes the version of Mr. Bhattacharjee.
7. This Court has meticulously gone through the entire materials as placed before this Court and has also given due consideration over the submissions made by the learned advocates appearing on behalf of the contending parties.
8. On perusal of the impugned order dated 11.2.2026 it reveals that such an order has been passed by the Respondent No.4 authority under section 10(3) of the Act of 1964. As rightly pointed out by Mr. Bhattacharjee that such an impugned order is appealable under section 10(4) of the Act of 1964 before the jurisdictional District Magistrate. However, on careful perusal of the order impugned dated 11.2.2026 *vis-à-vis* the previous order as passed by Respondent No.4 authority including the pleading of the instant writ petition, this Court finds

no cogent explanation either from the State or on behalf of the Private Respondent No.7 that prior to fixing the date on 11.2.2026, Respondent No.4 authority fixed that date (11.2.2026) either in presence of both the parties or due notice was served upon the present writ petitioners in connection with the said proceeding. Admittedly, in the event violation of principle of natural justice, this Court can entertain a writ petition despite availability of alternative and suitable remedy.

9. In view of such, the instant writ petition succeeds. Consequently, the order dated 11.2.2026 as passed by the Respondent No.4 authority is hereby set aside.
10. Before parting with, the writ petitioners and Private Respondent No.7 are directed to appear before Respondent No.4 authority positively on August 17, 2026, at 02.00 p.m. for participating in the proceeding under section 10(3) of the Act of 1964 in the case of *Re: Removal of Unauthorised Construction (Bankim Behari Patra vs. The State of West Bengal)*. On the said day Respondent No.4 authority shall give due opportunity of hearing to the writ petitioners and the Respondent No.7 and/or their authorised representatives and thereafter shall pass a reasoned order within 7 working days from the said day.

- 11.** It is made clear that in the event the present writ petitioners and the Private Respondent No.7 herein fail to appear before the Respondent No.4 authority on the day and hour mentioned above on any ground whatsoever, the Respondent No.4 authority shall proceed with the hearing of proceeding under section 10(3) of the Act of 1964 without granting of any adjournment.
- 12.** Before parting with, it is further directed that the Respondent No.4 authority shall provide the copy of demarcation report of the jurisdictional B.L.L.R.O. both to the writ petitioners and as well as to the Private Respondent No.7 herein at least seven days ahead of the date fixed by this Court.
- 13.** It is further directed that till passing of the reasoned order the Respondent No.4 authority shall not take any coercive action against the present writ petitioners. However, after passing of the reasoned order if he/she finds sufficient merit in the allegation and/or representation of the present Respondent No.7, namely, Bankim Behari Patra, he is directed to take all consequential action forthwith.
- 14.** Learned advocate-on-record in the instant writ petitioners is hereby requested to communicate the server copy of this order to the Respondent No.4 authority for his due compliance.

- 15.** With the aforementioned observations and directions, WPA 4785 of 2026 is **disposed of**.
- 16.** Urgent Photostat certified copy of this order, if applied for, be given to the parties, on priority basis, upon compliance of all necessary formalities.

(PARTHA SARATHI SEN, J.)