

25.03.2026
SL No.8
Court No.12
(gc)

**MAT 483 of 2026
CAN 1 of 2026**

**Debasish Bhattacharjee
Vs.
The State of West Bengal & Ors.**

Mr. Anindya Lahiri, Sr. Adv.,
Mr. Samrat Dey Paul

...for the Appellant.

Mr. Amal Kr. Sen, Ld. A.A.G.,
Mr. Lal Mohan Basu

...for the State.

Mr. Jaydip Kar, Sr. Adv.,
Mr. Parashar Baidya,
Mr. Soham Banerjee

...for the W.B.P.C.

1. The appellant was a nominee of the Government of West Bengal, Department of Health and Family Welfare, Drugs and Equipment Branch in the Council under the Pharmacy Act, 1948 (hereinafter referred to as the "said Act") for the State of West Bengal. It is the specific case of the appellant that he was nominated on October 5, 2012, subsequently, on June 18, 2018 and again on February 22, 2021. The writ petition was filed by the appellant on the ground that, by the subsequent notification dated July 28, 2025, the Secretary, Government of West Bengal, Health and Family Welfare Department nominated new members under Section 19(b) of the Pharmacy Act, 1948 and the name of the appellant was removed therefrom. The appellant contended that, once nomination was made on

February 22, 2021, by virtue of Section 25(1) read with Section 19(b) of the said Act, the tenure of the office of the appellant would be for a period of 5 years and would end on February 21, 2026. Before the period could end, the Government issued a notification on July 28, 2025, in which the appellant's name did not figure as a nominated member of the Council. Thus, the allegation was that the tenure of the appellant was curtailed.

2. Mr. Sen, learned Additional Advocate General submits that the grievance of the petitioner has been addressed. By virtue of an interim order passed by the writ court, the petitioner's tenure continued and the Committee nominated on July 28, 2025, did not take charge till the disposal of the writ petition.
3. Mr. Kar, learned Senior Advocate appearing for the Council submits that the nominated members ran the Council. Elections could not be held between 2013 and 2024, on account of various pending litigations. He further submits that the nomination of February 22, 2021 could not be read in isolation. Section 25 of the said Act read with Section 19 thereof, clearly indicated that the tenure of the entire Council would be for 5 years or till the successor was appointed or nominated, whichever was longer. In this case, from 2013 onwards the constitution of the Council was incomplete on account of elections not being held.

4. Under such circumstances, Mr. Kar submits that the nominated members continued to function as per the nominations made, but Council had not been constituted. Thus, the tenure of “five years or until the successor is appointed, whichever is longer”, could not be applied in this case. The prescribed tenure under the Act would be applicable when the Council is constituted as per law.
5. We have heard the learned Advocates for the respective parties.
6. We find some substance in the submissions made on behalf of the Council, but in any event, we are not inclined to decide the point of law raised by Mr. Lahiri at this stage, i.e., whether the nominated members would continue to hold office for five years or even after expiry of their term and until a successor/nominee was appointed by the Government, even in the absence of proper constitution of the Council under Section 25 read with Section 19 of the said Act. The point of law may be decided at an appropriate stage, as we find that any further deliberation in this case would be purely academic. The appellant has enjoyed his tenure of five years from February, 2021. The notification under challenge was stayed by the writ court.
7. Under such circumstances, the notification dated July 28, 2025 revived after the disposal of the writ petition

and the Council comprising of both elected and selected members will function.

8. Under such circumstances, the appeal and the connected application are disposed of.
9. There shall be no order as to costs.
10. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)