

Form No.J(2)

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

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 9691 of 2026

**Arnab Biswas
Versus
The State of West Bengal & Ors.**

For the petitioners : Mr. Jayanta Das
Ms. Sumita Ghosh

For the Bidhannagar : Mr. Arka Kumar Nag
Municipal Corporation : Mr. Tirthankar Dey
Mr. S. Banerjee

For the State : Mr. Sukanta Ghosh
Mr. Arghya Chatterjee

Heard on : 28.04.2026, 13.05.2026 & 16.06.2026

Judgment on : 16.06.2026

Raja Basu Chowdhury, J (Oral):

1. On 28th April, 2026, this Court was inter alia pleased to pass the following order:-

1."Challenging the reasoned order dated 6th April, 2026 whereby a recommendation has been made by the Chairman, Bidhannagar Municipal Corporation to deploy the petitioner who is a Doctor (MOIC) in any other Municipality with suitable replacement at the earliest, the instant writ petition has been filed. The learned

Advocate for the petitioner by drawing attention of this Court to the order dated 6th April, 2026 would submit that the decision in this regard has been taken pursuant to a complaint dated 8th August, 2025 and the notice dated 11th October, 2025 issued by Commissioner, Bidhannagar Municipal Corporation. According to the petitioner, the complainant and the petitioner were heard in connection with the hearing notice dated 11th October, 2025, however, despite specific request made by the petitioner to supply the petitioner with the copy of the complaint for the petitioner to appropriately respond to the same, copy of such complaint has not been made over to the petitioner.

2. Prima facie, upon going through the order impugned it would transpire that the recommendation made is punitive in nature, as the Chairman of the Municipality had taken the views of the complaint made by the Councillor as regards his dissatisfaction and the alleged negligence in service delivered to the resident's of the Ward. The aforesaid order prima facie appears to be a punitive decision apart from the same being violative of the provision of natural justice.

3. Since Mr. Dey, learned Advocate appears for the Municipality and would like to use a response to the aforesaid writ petition, let the same be filed on or before the matter is taken up next. State is also at liberty to file a response.

4. Accordingly, pending hearing of this petition, the order dated 6th April, 2026 shall remain stayed for a period of four weeks from date or until further order, whichever is earlier.

5. List this matter on 13th May, 2026 under the same heading".

2. Since then, this Court by an order dated 13th May, 2026, had extended the period for the municipality as also the State to file the response.

3. Today, Mr. Nag, learned advocate appearing for the municipality would submit that apart from the order available at page 63 of the writ petition dated 6th April, 2026, the municipality does not wish to file any further response. By placing before this Court the said order he submits that the aforesaid order is only a recommendation as would be apparent from the last paragraph of the said order. The above order is not a transfer order. As such, the same cannot be termed as punitive. By referring to pages 29 and 33 of the writ petition he submits that the municipality is neither the appointing authority nor the disciplinary authority of the petitioner and as such no order for transfer of the petitioner could have been passed on the basis of the above recommendation. The writ petition is premature and should be dismissed.

4. The State has not sought for any leave to file any response nor has filed any response in the matter.

5. Having heard the learned advocates appearing for the respective parties and upon considering the materials on record and since Mr. Nag, learned advocate for the municipality, on instruction, would submit that they are not the appointing authority nor the disciplinary authority of the petitioner and since the materials would also support such submissions, and the aforesaid aspect is not in dispute within the

parties, I am of the view that the aforesaid recommendation for transfer could not have been made by the municipality especially when the same was based on a complaint and smacks of punitive character. This apart, the petitioner was never favoured with the copy of the complaint based on which the above recommendation was made. It is well-settled that no punitive action can be taken without affording opportunity of hearing and framing charges for such action.

6. In the light of the above, in my view the aforesaid order dated 6th April, 2026 cannot be sustained and the same is accordingly quashed.

7. It is, however, made clear that the aforesaid interference has been made having regard to the peculiar facts of this case and does not interfere with the rights of the appropriate authority to pass order for transfer in appropriate cases.

8. With the above observations and directions, the writ petition is disposed of.

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

(Raja Basu Chowdhury, J.)

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A.R. (Court)