

18.05.2026
SL No.8
Court No.12
(gc)

**MAT 824 of 2026
CAN 1 of 2026**

**Subhajit Das
Vs.
The State of West Bengal & Ors.**

Mr. Uttiya Ray,
Mr. Atish Santra

...for the Appellant.

Mr. Dyutiman Banerjee,
Mr. DEbjit Dutta

...for the Respondent No.5.

1. Affidavit of service is taken on record.
2. The writ petition was filed for a direction upon the Sub-Divisional Officer/Tribunal under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 to issue a warrant in terms of Section 5(8) of the said Act, and for other reliefs.
3. The direction upon the Officer-in-Charge, Burdwan Sadar Police Station, Purba Bardhaman to produce the appellant before the Court on June 9, 2026 at 1.00 p.m. is set aside, as the same appears to have been passed without considering the legal provisions.
 - a) The learned Single Judge shall take into consideration the legislative intent behind incorporation of Section 5(8) of the Maintenance and Welfare of Parents

and Senior Citizens Act, 2007 (hereinafter referred to as the “said Act”) and whether the warrant could be issued only upon the Tribunal satisfying itself that the situation required issuance thereof.

b) An opportunity should be given to the appellant to file an affidavit-in-opposition indicating the reason as to why the appellant was not in a position to pay further money.

c) The appellant has also filed an application before the Tribunal indicating the reasons as to why the appellant was unable to pay. This aspect is yet to be decided by the Tribunal.

4. The above issues should have been looked into, before directing production of the appellant by the police authorities before the writ court. Without a, *prima facie* finding that warrant was required to be issued by the Tribunal, for failure on the part of the appellant to comply with the order of the Tribunal, the direction upon the police to produce the appellant, without an opportunity to controvert the allegations is harsh.

5. However, this order is subject to the payment of an amount of Rs.21,000/-, to be paid by the appellant to the writ petitioner/respondent no.5 within June 8, 2026.
6. The matter will be heard by His Lordship afresh on merits.
7. Accordingly, the appeal and the connected application are disposed of.
8. There shall be no order as to costs.
9. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)