

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)
APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA No. 24343 of 2024

Kusal Roy

Versus

State of West Bengal and Others

Mr. Krishnaraj Thaker, Sr. Adv.

Ms. Pubali Sinha Chowdhury

Mr. Shwetank Ginodia

Mr. Satyaki Mukherjee

Ms. Sirin Firdous

Ms. Mini Agarwal

.....For the petitioner.

Mrs. Gita Roy

.....Respondent no. 3 in person.

Mr. Asish Kumar Roy

.....Respondent no. 4 in person.

Hearing Concluded On : 11.06.2026

Judgment On : 25.06.2026

Uploaded On : 25.06.2026

Krishna Rao, J.:

1. The petitioner has filed the present writ application challenging the impugned orders passed by the Learned District Magistrate, South 24 Parganas, dated 7th June, 2024 and 10th June, 2024, in Appeal No. 13 of 2024, under the Maintenance of Welfare of Parents and Senior Citizens Act, 2007.
2. By an order dated 10th June, 2024, the District Magistrate, South 24 Parganas being the Appellate Authority under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, passed the impugned order directing the petitioner to pay the monthly maintenance of Rs. 10,000/- to the respondent nos. 3 and 4 from the month of July, 2024.
3. Mr. Krishna Raj Thaker, Learned Senior Advocate representing the petitioner submits that the impugned orders are in contraventions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and is beyond his jurisdiction.
4. Mr. Thaker submits that in the year 2019, the respondent nos. 3 and 4 being the mother and father of the petitioner, have filed a complaint before the Sub-Divisional Officer, Baruipur, South 24 Parganas, under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and the Sub-Divisional Officer, by an order dated 7th February, 2019, passed an order directing the petitioner to provide basic amenities for his mother and father i.e. medical treatment and also directed for keeping a close liaison with his parents time to time.

- 5.** Being aggrieved with the said order, the petitioner has preferred an appeal being Appeal No. 02/RM/2019. By an order dated 22nd December, 2020, the Appellate Authority rejected the appeal filed by the petitioner and the order passed by the Sub-Divisional Officer Baruipur, South 24 Parganas was confirmed. The petitioner has preferred a writ application before this Court being WPA No. 21645 of 2023 (Kusal Roy vs. State of West Bengal & Ors.) and this Court by an order dated 5th December, 2023, set aside the orders passed by the Sub-Divisional Officer as well as the Appellate Authority and given liberty to the respondent nos. 3 and 4 to make fresh application before the concern Sub-Divisional Officer under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and if any, application is filed by the respondent nos. 3 & 4, the Sub-Divisional Officer was directed to decide the same after giving an opportunity of hearing to both the parties.
- 6.** As per the liberty granted by this Court, the private respondents have filed an application under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 before the Sub-Divisional Officer. On 28th March, 2024, the Sub-Divisional Officer has rejected the said application.
- 7.** Being aggrieved with the order of the Sub-Divisional Officer, the respondent nos. 3 and 4 preferred an appeal before the District Magistrate, South 24 Parganas, being Appeal No. 13 of 2024. The

Appellate Authority has disposed of the said appeal by passing the impugned order.

- 8.** Mr. Thaker submits that it is admitted by the respondent nos. 3 and 4 that they are having substantial properties, income and savings inspite of the admission, the Appellate Authority has passed the impugned order directing the petitioner to pay Rs. 10,000/- to the respondent nos. 3 and 4 as monthly maintenance.
- 9.** Mr. Thaker submits that by a registered deed dated 30th January, 2019, the petitioner has relinquished his right to inheritance of the properties of the respondent nos. 3 and 4. He further submits that the petitioner is maintaining the Health Insurance Policies for his parents which is separately paid and linked to the petitioner's Health Insurance Policy with his employers. He further submits that without prejudiced to his rights and contentions, the petitioner in compliance of the order passed by the Appellate Authority is remitting the amount of Rs. 10,000/- to the respondent nos. 3 and 4 every month.
- 10.** Mr. Thaker submits that sub-section 2 of Section 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, the maximum amount of Rs. 10,000/- is permissible but the Court cannot direct the physical presence of the petitioner.
- 11.** The respondent nos. 3 and 4 being the mother and father of the petitioner appeared in person, and submits that the petitioner is the only son of the respondent nos. 3 & 4. The respondent no.3 submits

that through their dedication, efforts and professional sacrifices raised the petitioner to be highly educated at St. Xavier's School Kolkata, IIT Kharagpur and IIM Ahmedabad.

- 12.** The respondent no. 3, namely, Dr. Gita Roy aged about 79 years submits that she is an acute cardiac patient who underwent double PTCA in 2004 and 2021 respectively, with several stents implanted in her heart. She is also suffering from very painful arthritis. To compound her worsening health conditions, she has recently been diagnosed with an enlarged cyst in her right ovary, which may lead to a high risk surgery to avoid malignancy.
- 13.** She further submits that her husband, namely, Dr. Asish Kumar Roy aged about 81 years, has been suffering from life-threatening Adenocarcinoma Prostate since the end of 2023 and is presently undergoing intensive treatment. He is also suffering from Chronic Kidney Disease (CKD) and Chronic Obstructive Pulmonary Disease (COPD). In view of these grave medical conditions, it is absolutely impossible for her husband to shoulder the responsibility of her complicated and high risk open abdomen surgery.
- 14.** She further submits that her son has blocked their mobile numbers and e-mail ID's over the years. They made repeated attempts to convey to him the seriousness of her medical condition, first through their grandson, Neel Roy, now who is studying in USA, and later through the petitioner's lawyer at Kolkata. However, due to parental strictures, Neel

Roy unable to correspond with them via e-mail, while petitioner's lawyer has informed them through e-mail that the petitioner does not wish to be contacted by his parents.

- 15.** She further submits that the petitioner has not visited his parental residence at Sonarpur for the past 13 years and failed to take his responsibilities towards his old aged and seriously ailing parents.
- 16.** She further submits that Neel Roy, aged about 24 years, the only son of the petitioner and their only grandson, is currently a Research Associate at Stanford University, USA. He is highly adorable to them and was very attached to them. He visited their Sonarpur residence only once in 2012 and enjoyed his short stays for a few hours with them. Over the last several years, they have not been allowed to keep contact with him or to be a part of the life of their most adorable grandson by his parents, particularly by his mother, who has denied them Neel's overseas address and personal contact number.
- 17.** She further submits that due to their old age and ailments, they are unable to take proper care of themselves by periodical medical check-ups. She submits that it is their wish that their son comes and stays for a few days with them at Sonarpur.
- 18.** She further submits that at this stage of their life and being afflicted several life threatening diseases, they are too exhausted and are not intending to continue with their legal battle. They only want that at their old age, their son to be with them.

- 19.** The respondent nos. 3 and 4 being the mother and father of the petitioner have filed an application before the Sub-Divisional Officer under Section 4 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, praying for an order that their son must visit them, call them and take care of them as a son does under normal circumstances. The respondent nos. 3 and 4 had also prayed for an order for Rs. 5,000/- each per month for their medical treatment.
- 20.** After hearing the parties in person, this Court constituted a Committee consisting of Dr. Amit Kumar Bhattacharyya, Director and HoD, Department of Psychiatry, IPGME&R, Dr. Bidita Bhattacharya, Associate Professor, Department of Clinical Psychology, IOP-COE, Mr. Mayank Kumar, Assistant Professor and HoD, Department of Psychiatric Social Work, IOP-COE and Ms. Chandrima Sinha, Family Counselor to conduct counselling of the petitioner and the respondent nos. 3 and 4.
- 21.** The Committee after counselling the petitioner and respondent nos. 3 and 4 submitted report which reads as follows:

“Report of the Committee

A committee was formed with the following members as per order of Hon’ble High Court at Calcutta dated, 10/03/2026 and communication of ADHS Mental Health, Govt. of West Bengal, Dept. of H&FW, vide memo no. MH/A-1148 Dated, 16/03/2026.

Members of the committee appointed by the Hon’ble High Court:

- 1. Prof. Dr. Amit Kumar Bhattacharyya, Prof. & HOD,
Dept of Psychiatry, IPGME&R*

2. Dr. Bidita Bhattacharya, Asso. Prof. & HOD, Dept. of Clinical Psychology, IOP-COE
3. Dr. Mayank Kumar, Asst. Prof. & HOD, Dep of Psychiatric Social Work, IOP-COE
4. Ms. Chandrima Sinha, Family Counselor

Case Ref No: WPA No. 24343 of 2024

Venue of sessions: Institute of Psychiatry – COE 7, D.L. Khan Road, Kolkata – 25

Subject: Clinical Report on Psychotherapeutic Intervention

Pursuant to the order dated, 10/03/2026 by the Hon'ble Court and communication of ADHS Mental Health, Govt. of West Bengal, the undersigned has conducted a clinical evaluation, counselling and psychotherapeutic sessions for the following participants:

- Name of Mother : Smt. Gita Roy
(dr.gitaroy@gmail.com)
- Name of Father: Sri Asish Roy
(roy.asish2009@gmail.com)
- Name of Son: Sri Kushal Roy
(kushalroy70@gmail.com)

Psychotherapeutic & Counselling Sessions (1st April, 2026 & 11th April, 2026)

The assessment and intervention were carried out over **two intensive sessions**. The following clinical modalities were utilized:

- **Individual Clinical Interviews:** Separate sessions were conducted with the parents and son to ensure “safe space” for the disclosures of concerns without immediate confrontation.
- **Conjoined Sessions:** Attempted therapeutic conversations to identify common ground.
- **Counseling and Psychotherapeutic Intervention:** Focused on interpersonal relationship issues, conflict resolution strategies, and empathy building.

During the sessions, both parents and son were given an exhaustive hearing to place their respective points of view,

expectations, and concerns. The observations of the committee members are:

A. Perspective of Elderly Parents:

The parents expressed and reported specific expectations regarding care, and familial involvement.

B. Perspective of the Son:

The son presented his viewpoint, highlighting his own opinion about parental expectations.

Therapeutic Outcome:

Despite active psychotherapeutic intervention and attempts to solve the interpersonal problems with mutual understanding:

- ***All three of them exhibited significantly entrenched positions. There was a marked refusal to validate the other's perspective or lived experience.***
- ***The attempt to reach middle ground on future living/interaction arrangements did not seem to work.***
- ***Each side considered the expectations sent by the other to be difficult to accept. All three of them found it challenging to accept the expectations stated by the other."***

22. On 28th March, 2024, the Sub-Divisional Officer, Baruipur, South 24 Parganas, has passed the following order:

*"The undersigned being the **Prescribed Authority of Maintenance Tribunal under Section 7 Sub-section 2 of Maintenance and Welfare of Parent and Senior Citizens Act 2007**, hereby rejects the prayer of the present petitioners under the due process of Law after considering all the submitted documents and after affording reasonable opportunity of being heard to all the interest parties."*

23. The Appellate Authority has passed the following order:

“Considering the submissions made by all the parties and after considering all relevant documents in this case and relevant provisions of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, being the District Magistrate, South 24-Parganas, I am of the opinion that the appellants are financially sound but considering the present circumstances of the appellants and their advancing age accompanied with the ailments, the monthly pension of the appellants may not be sufficient for the treatment of disease of the appellants. In view of the above, the opposite party i.e. Mr. Kusal Roy is hereby directed to pay the monthly maintenance of Rs. 10,000/- (Ten Thousand) only in favour of the appellants. Maintenance shall be paid starting from the month of July 2024 and shall be paid subsequently by the opposite party to the appellants by 5th day of every month.

The other prayers of the appellants viz. regular visits by the opposite party, stay at his parental house and inclusion of the appellants in the insurance policy of the applicant are beyond the purview of this appellant tribunal and thus not considered.

The order dated 28.03.2024 passed by the Maintenance Tribunal Sub-Divisional Office, Baruipur, South 24-Parganas hereby set aside. The appeal filed by the appellants is hereby considered and allowed with the above-mentioned relief.”

- 24.** The respondent no. 3 is a retired Associate Professor of Department of History and the respondent no. 4 is a retired Professor of Political Science and getting their monthly pensions. The respondent no.3 is also having double storied building. The petitioner has already executed a registered deed, relinquished his right to inheritance of the properties of his parents.

- 25.** Section 4 of the Act provides that the senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him can make an application for maintenance. In the previous round of litigation, the Sub-Divisional Magistrate directed the petitioner to visit his parental house at least once in a month to look after them properly and also directed the petitioner to remain present during his father's eye operation as per scheduled date. The said order was affirmed by the appellate authority.
- 26.** This Court by an order dated 5th December, 2023, set aside the order holding that the Sub-Divisional Officer has passed the order de hors the power.
- 27.** After the order passed by this Court, the respondent nos. 3 and 4 have made detailed complaint to the Sub-Divisional Officer praying for a direction upon the petitioner for reimbursement of the medical expenses of the respondent nos. 3 and 4 and to maintain regular contacts with his parents.
- 28.** In paragraphs 5 and para 16 of the complaint, it is stated that :

“5. Without any financial help from her husband purchased a flat at Lake Town and later built a two-storied house on a two-and-a-half cottah plot (17A) with garden at Ramakrishna Pally, Sonarpur by taking loan and with her own salary at the request of her husband, Prof. Dr. Asish Kumar Roy, who has built a one-room flat with a store room and garden on a two-and-a-half cottah plot (17B) from his own salary and savings.

16. *Prof. Dr. Gita Roy has a two-storied house with a mezzanine floor and a garden on a two and a half cotta plot (17A) at Ramakrishna Pally, Sonarpur, built exclusively with her income and Prof. Dr. Asish Kumar Roy has built a one-room flat with a store room on a two and a half cottah plot (17B) at the same address.”*

- 29.** The respondents have also admitted while filing their details before the Sub-Divisional Officer that they owns about 148 term deposits at the local banks and they are also receiving their periodical interests from the said terms deposits. It is also admitted that they have also purchased car.
- 30.** The petitioner has disclosed documents wherein it reveals that the petitioner has paid medical expenses when the respondent nos. 3 and 4 were treated at Hindustan Health Point Pvt. Ltd. and Woodland Multispecialty Hospital through the insurance policies maintained by the petitioner. The petitioner is also maintaining insurance policy for his parents which is linked with the petitioner’s health insurance policy with his employer.
- 31.** At the time of hearing of the present case, the only contentions of the respondent nos. 3 and 4 that the petitioner should come and meet the respondent nos. 3 and 4 every interval. This Court directed the petitioner either to appear before this Court in person or through virtual mode. The petitioner appeared through virtual mode and submits that due to the alleged acts of the respondent nos. 3 and 4 though being the mother and father is apprehending danger to come to

meet the parents as they have lodged several complaints against the petitioner at Kolkata as well as in Mumbai and time and again, the petitioner is receiving calls from the police authorities either from Kolkata or from Mumbai. All the complaints lodged by the respondent nos. 3 and 4 are disclosed in the present writ application.

- 32.** The petitioner informed this Court that his parents are having sufficient income for their livelihood and the petitioner is maintaining insurance policy which covers his parent and he will bear the medical expenses of his parents.
- 33.** In the complaint filed before the Sub-Divisional Officer, the grievance of the respondent nos. 3 and 4 was for a direction upon the petitioner to maintain contact with the respondent nos. 3 and 4 but the Sub-Divisional Officer has rejected the complaint of the respondent nos. 3 and 4. The appellate authority has directed the petitioner to monthly maintenance of Rs. 10,000/- from the month of July, 2024. The appellate authority has considered the findings of the Sub-Divisional Officer wherein it was held that the respondent nos. 3 and 4 are financially sound enough and not eligible for maintenance under the Act, but without considering the prayer made in the complaint and without assigning any reasons had passed the impugned order.
- 34.** Sections 4, 5 and 9 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, reads as follows:

“4. Maintenance of Parents and Senior Citizens.”-(1) *A senior citizen including parent who is unable to maintain himself from his own earning or out of the property owned by him, shall be entitled to make an application under section 5 in case of –*

- i. parent or grand-parent, against one or more of his children not being a minor;*
- ii. a childless senior citizen, against such of his relative referred to in clause (g) of section 2.*

(2) The obligation of the children or relative, as the case may be, to maintain a senior citizen extends to the needs of such citizen so that senior citizen may lead a normal life.

(3) The obligation of the children to maintain his or her parent extends to the needs of such parent either father or mother or both, as the case may be, so that such parent may lead a normal life.

(4) Any person being a relative of a senior citizen and having sufficient means shall maintain such senior citizen provided he is in possession of the property of such senior citizen or he would inherit the property of such senior citizen: Provided that where more than one relatives are entitled to inherit the property of a senior citizen, the maintenance shall be payable by such relative in the proportion in which they would inherit his property.

5. Application for maintenance

1. An application for maintenance under section 4, may be made –

- a. by a senior citizen or a parent, as the case may be; or*
- b. if he is incapable, by any other person or organisation authorised by him; or*
- 1.*
- c. the Tribunal may take cognizance sua motu*

Explanation: For the purposes of this section "organisation" means any voluntary association

registered under the Societies Registration Act, 1860, or any other law for the time being in force.

2. The Tribunal may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this section, order such children or relative to make a monthly allowance for the interim maintenance of such senior citizen including parent and to pay the same to such senior citizen including parent as the Tribunal may from time to time direct.

3. On receipt of an application for maintenance under sub-section (1), after giving notice of the application to the children or relative and after giving the parties an opportunity of being heard, hold an inquiry for determining the amount of maintenance

4. An application filed under sub-section (2) for the monthly allowance for the maintenance and expenses for proceeding shall be disposed of within ninety days from the date of the service of notice of the application to such person:

Provided that the Tribunal may extend the said period, once for a maximum period of thirty days in exceptional circumstances for reasons to be recorded in writing.

5. An application for maintenance under sub-section (1) may be filed against one or more persons:

Provided that such children or relative may implead the other person liable to maintain parent in the application for maintenance.

6. Where a maintenance order was made against more than one person, the death of one of them does not affect the liability of others to continue paying maintenance.

7. Any such allowance for the maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or expenses of proceeding, as the case may be.

8. If, children or relative so ordered fail, without sufficient cause to comply with the order, any such Tribunal may, for every breach of the order, issue a warrant for levying the amount due in the manner provided for levying fines, and may sentence such person for the whole, or any part of each month's allowance for the maintenance and expenses of proceeding, as the case may be, remaining unpaid after the execution of the warrant, to imprisonment for a term which may extend to one month or until payment if sooner made whichever is earlier:

Provided that no warrant shall be issued for the recovery of any amount due under this section unless application be made to the Tribunal to levy such amount within a period of three months from the date on which it became due.

9. Order for maintenance.-(1) If children or relatives, as the case may be, neglect or refuse to maintain a senior citizen being unable to maintain himself, the Tribunal may, on being satisfied of such neglect or refusal, order such children or relatives to make a monthly allowance at such monthly rate for the maintenance of such senior citizen, as the Tribunal may deem fit and to pay the same to such senior citizen as the Tribunal may, from time to time, direct.

(2)The maximum maintenance allowance which may be ordered by such Tribunal shall be such as may be prescribed by the State Government which shall not exceed ten thousand rupees per month.”

35. As per Section 4(1) if a senior citizen including parent unable to maintain from his own earning or out of the property owned by him, is entitled to make an application under Section 5 of the Act. Under sub-section 2 of Section 4, it is the obligation of the children or relative to maintain a senior citizen extends to the needs of such citizen so that senior may lead normal life. Under sub-section 3 of Section 4, it is the

obligation of the children to maintain their parent extends to needs of such parent to lead normal life.

- 36.** Section 5 provides for application for maintenance. As per Sub-Section 1(a) and (b) of Section 5, application for maintenance may be made by senior citizen or a parent by himself or through someone authorized by him. The Tribunal may take cognizance of a situation suo motu. The Tribunal may pass an order for grant of monthly maintenance allowance of the senior citizen or parent.
- 37.** As per Section 9, the maintenance allowance shall not exceed ten thousand rupees.
- 38.** In the present case, it is the admitted case of the respondent nos. 3 and 4 that they are the retired government servants and are getting monthly family pension. They are having two storied residential building, having their own car and also having 148 term deposits with different banks and also having substantial savings.
- 39.** The only grievance of the respondent nos. 3 and 4 is that the petitioner being their only son should regularly contact with them over phone and to visit their residence at Ramakrishna Pally, Sonarpur, time to time and to stay with them for some days and to take adequate care of their health. The petitioner has challenged the order passed by the Appellate Authority wherein the petitioner is directed to pay Rs. 10,000/- to the respondent nos. 3 and 4 from the month of July, 2024, on the ground that it is not the case of the respondent nos. 3 and 4 that they are

unable to maintain themselves. The Appellate Authority has not considered the provisions of Sections 4 and 5 of the Act of 2007 in its true spirit and the admission made by the respondent nos. 3 and 4 that they are having sufficient means.

40. Though the petitioner has challenged the order but at the time of hearing on instructions submits that the petitioner will pay Rs. 10,000/- per month to the respondent nos. 3 and 4. The respondent nos. 3 and 4 submits that they are having sufficient income, they did not require any amount from the petitioner but the petitioner should contact with them over phone and to visit their residence time to time and to stay with them for some days and to take adequate care of their health.

41. Considering the above, this Court finds that it is admitted by the respondent nos. 3 and 4 that they are able to maintain themselves and having sufficient means, thus the orders passed by the Appellate Authority dated 7th June, 2024, and 10th June, 2024, are set aside and quashed. The order passed by the Tribunal is affirmed. As regard to the prayer made by the respondent nos. 3 and 4, the same cannot be granted to the respondent nos. 3 and 4 as the same is not within the purview of the provisions of Act of 2007.

However, the petitioner being the son of the respondent nos. 3 and 4, admitted that he is maintaining the Health Policies for his parents which is linked to the petitioner's Health Insurance Policy

with his employer, and is having moral duty to take care of his old age parents, thus the petitioner is directed to see that the respondent nos. 3 and 4 shall get proper treatment for their healthy life.

42. WPA No. 24343 of 2024 is disposed of.

Parties shall be entitled to act on the basis of a server copy of the Judgment placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)