IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present :- Hon'ble Justice Amrita Sinha

WPA 26196 of 2026

Dr. Anuradha Ghosh & Anr.
Vs.
The State of West Bengal & Ors.

For the writ petitioners	:-	Mr. Pratik Dhar, Sr. Adv. Mr. Debashis Banerjee, Adv. Mr. Kartik Kumar Ray, Adv. Mr. Snehal Sinha, Adv. Mr. Rakesh Jana, Adv. Mr. Apurba Kolya, Adv.
For State	:-	Mr. Lokenath Chatterjee, Jr.SC Ms. Sneha Chatterjee, Adv.
Hearing concluded on	:-	21.09.2026
Judgment on	:-	06.10.2026
Uploaded on	:-	06.10.2026

Amrita Sinha, J.:-

1. The petitioners are qualified doctors who successfully completed their post graduate degree in December, 2024. As per the notification published by the department of Health and Family Welfare, MERT branch dated 10th June, 2014, doctors after completion of post graduate and post-doctoral education in State Government Medical Teaching Institution has to work in multi-speciality/ super speciality hospitals, secondary and tertiary level hospitals in West Bengal for three years to serve the rural people. On failing to do so,

such candidate will be liable to recompense the State Government a penal amount of Rs. 10,00,000/- (ten lac) only for each defaulting year.

2. Every post graduate trainee, other than State Government sponsored in-service doctors, has to execute an indemnity bond to serve the State Government. All original educational documents are retained by the department for the purpose of ensuring successful completion of the bond period or payment of penal amount, as may be applicable. During bond period, the post graduate trainee is designated as Senior Resident. The said arrangement is effective and applicable for the doctors admitted in post-doctoral /MD/ MS and PG diploma course in State Medical Teaching Institution from the succeeding academic session of 2015-2016 and onwards.

3. A standard operating procedure (SOP) was published by the department on 16th February, 2023 dealing with different issues of non-sponsored candidates engaged as Senior Resident (under indemnity bond). As per the SOP the Directorate of Medical Education is to arrange for collection of the particulars of non-service candidates on their successful completion of the course from the West Bengal University of Health Sciences or Principals of concerned Medical College and Hospitals/ Teaching Institutions of the State namely; the (i) Name of the candidate, (ii) Registration number, (iii) Roll number, (iv) Contact number, (v) Email address, (vi) Residential address, (vii) PAN, (viii) Institute from which the course was completed, (ix) Name of Post-doctoral/ Postgraduate Degree or Diploma, (x) Discipline of the course, (xi) Total marks obtained, (xii) Rank obtained in the discipline, (xiii) Medical

Council Registration number, or any other particulars as may be required from time to time.

4. Based on the merit list prepared on the basis of the collected particulars stated herein above, the Directorate of Medical Education along with concerned branch of the department (MERT), through counselling, arranges for engagement of such candidates completing post graduate degree at different Medical College and Hospitals/ Teaching Institutions of the State as Senior Resident for initial one year.

5. After completion of one year bond service, the Directorate of Health Services along with concerned branch of the department [HS(MA)] arranges for appointment of such candidates at different secondary tier hospitals and rural hospitals in the State as Senior Resident through further counselling based on the merit list already prepared on the basis of the collected particulars stated herein above.

6. The SOP also mentions that, if any candidate while serving as Senior Resident is permitted to apply for job through fresh recruitment and thereafter gets appointed after being selected through West Bengal Health Recruitment Board, then such Senior Resident will be allowed to join in the respective post with condition that their original documents retained by the department will be released only after completion of actual period of service in respective cadre equal to the rest of the period to be served by them on indemnity bond.

7. In terms of the aforesaid SOP, all particulars of the petitioners were duly collected and a merit list was prepared and published by the authority. Counselling was conducted in accordance with the said merit list. The petitioners chose their respective institutions where they are serving as Senior Resident from May, 2025.

8. The petitioners are particularly aggrieved by the act of the respondents to implement fresh SOP for Senior Resident on indemnity bond published by the department on 11th June, 2026 in supersession of all previous orders on the subject. It mentions that deployment of the candidates as Senior Resident will be made through counselling based on the merit list prepared on the basis of the collected data and such counselling will be conducted amongst those candidates who register for counselling.

9. The counselling process to fill up the vacancies will be done as per merit and as per hundred-point roster which would include the reservations for scheduled castes, scheduled tribes, OBC, UR-PwBD, SC-PwBD, EWS separately. The tenure of indemnity bond shall start from the date of joining as Senior Resident as per departmental notification.

10. A Circular was published by the department on 3rd August, 2026 to capture 'better particulars' of PG degree candidates who passed out in December, 2024 and are eligible for re-engagement. The department has launched a web portal link and the candidates were to enter their information sought for within seven days.

11. A further Circular was issued by the department on 12th September, 2026 publishing the merit cum hundred-point rank list and the vacancy matrix for placement of the candidates. The candidates have been allowed to fill their choice of vacancies and each candidate has been permitted to prioritise all the available vacancies and submit the details within five days, that is, by 16th September, 2026, 6pm server time.

12. The position of the petitioners in the initial list prepared by the department in terms of the SOP dated 16th February, 2023 got altered in the subsequent list prepared by the department in terms of the SOP dated 11th June, 2026. The petitioners complain about the same.

13. It has been submitted that on the date of joining the bond service, the SOP dated 16th February, 2023 was prevailing. The petitioners were enlisted in the merit list in accordance with the said SOP. There was no provision for applying the reservation roster on the date and time the petitioners commenced their bond service. After completion of one year of the three years' bond service period, a separate merit list based on reservation roster ought not to be followed.

14. It has been contended that the bond service period of three years has to be taken as a whole. In the first year the Senior Resident is to be posted at different medical colleges and hospitals throughout the State and in the remaining period of two years of the indemnity bond, the Senior Resident is posted at different secondary tier hospitals and rural hospitals as per requirement throughout the State.

15. It has been argued that a different SOP ought not to be implemented in the midst of the bond service period after the Senior Resident has completed one year of the service period. The same will amount to changing the rules of the game after the game had begun, which is impermissible in law.

16. It has been asserted that since a Senior Resident is not a regular appointee in the department, the roster-based engagement ought not to be made applicable.

17. Assuming that the changed SOP can be made applicable, the same ought to be applied for the fresh batch of Senior Residents and not in respect of the Senior Residents who have already performed one year of the bond service period.

18. Prayer has been made to direct the respondents not to implement or apply the SOP dated 11th June, 2026 in respect of them and permit them to conclude the three years' bond service period in accordance with the SOP following which they joined.

19. In support of the submission that the petitioners cannot be treated to be in regular service of the government and the authority cannot apply roster-based vacancy in respect of them, learned senior counsel representing the petitioners relies on the order passed by the Hon'ble Division Bench of this Court on 6th November, 2025 in MAT 1736 of 2025 with IA No. CAN 1 of 2025 ***(State of West Bengal & Ors. vs. Dr. Aniket Mahata & Ors.)*** affirming the judgment delivered by the learned Single Judge of this Court

on 24th September, 2025 in WPA 12496 of 2025 in ***Dr. Aniket Mahata vs. State of West Bengal & Ors.***

20. Reliance has also been placed on the judgments delivered by a coordinate bench of this Court in ***Dr. Debashis Halder vs. State of West Bengal & Ors***. reported in ***(2026) SCC Online Cal 3835*** and in ***Dr. Asfakulla Naiya vs. State of West Bengal & Ors.*** reported in ***(2026) SCC Online Cal 3836***.

21. The petitioners also rely on the judgment delivered by the Hon'ble Supreme Court in the matter of ***Monarch Infrastructure (P) Ltd. Vs. Commissioner, Ulhasnagar Municipal Corporation & Ors.*** reported in ***(2000) 5 SCC 287*** on the issue that the rules of the game cannot be changed after the game had begun.

22. ***Tej Prakash Pathak & Ors. vs. Rajasthan High Court & Ors.*** reported in ***(2025) 2 SCC 1*** has been relied upon on the issue that eligibility criteria for being placed in the select list notified at the commencement of the recruitment process, cannot be changed midway through the recruitment process unless the extant rules so permit. Even if such change is permissible, the same have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness.

23. Learned advocate representing the respondents oppose the submission and prayer of the petitioners. It has been submitted that the roster-based vacancy has been introduced in compliance of the direction passed by the Hon'ble Supreme Court on 3rd October, 2023 in writ petition (Civil) No.

1100/2022 in the matter of ***Md. Imran Ahmad & Ors. vs. Union of India & Ors.***

24. The University Grants Commission issued communication to the Vice Chancellor of all Universities on 16th February, 2026 requesting strict compliance of the direction mentioned in the reservation policy of the Government of India in respect of all temporary appointments that last for forty-five days or more.

25. The DoPT Office Memoranda dated 5th May, 2018 and 21st November, 2022 make it mandatory to implement reservation for scheduled castes, scheduled tribes and other backward classes in all temporary appointments. The National Commission for backward classes and the Ministry of Education have also emphasized strict adherence to these provisions.

26. For the purpose of mandatory implementation of the policy of reservation in all Universities in respect of temporary appointments lasting more than forty-five days, the State is applying the vacancy-based roster.

27. It has been submitted that the bond service period of the petitioners has to be taken as temporary appointment and the petitioners would be bound to follow the reservation policy.

28. It has been contended that the petitioners cannot insist on performing bond service at a particular hospital or college as per choice. The petitioners are being paid for the service rendered by them and, as such, the State being employer has every right to post the petitioner as per the vacancy roster.

29. It has been argued that the bond service period is of three years. The first tenure is of one year and the next of two years. The first tenure of the petitioners is over and the second is due to begin. It is at this stage that the roster-based vacancy is being introduced. The stage of introduction of the roster-based vacancy cannot be taken to be in the midst of the bond service period as the second tenure of the petitioners is yet to begin.

30. Had it been a case that in the midst of the tenure, the new SOP was sought to be implemented, then question would have been otherwise. As the new SOP has not been sought to be implemented in the middle of the two years' tenure, the principle of - changing the rules of the game after the game had begun- would not be applicable in the facts and circumstances of the instant case.

31. It has been submitted that there are several Senior Residents throughout the State who have submitted their particulars as sought for without any demur. Only at the instance of two Senior Residents, introduction of the roster-based vacancy ought not to be stalled or disturbed.

32. It has been submitted that the precedents in the matter of Dr. Aniket Mahata, Dr. Debashis Halder and Dr. Asfakulla Naiya cannot be made applicable in the facts and circumstances of the instant case.

33. Prayer has been made to dismiss the writ petition and permit the respondents to proceed with the implementation of the roster-based vacancy.

34. I have heard and considered the rival submissions made on behalf of both the parties and have perused the materials placed before the Court.

35. The petitioners have completed the post graduate degree course and passed out in December, 2024. As per the SOP dated 16th February, 2023 which was prevailing at that point of time, the petitioners had to execute an indemnity bond at the time of admission to serve the State Government for a period of three years after successful completion of the course in multi-speciality/super-speciality hospital, secondary and tertiary care hospital to serve the rural people.

36. As per the SOP, if any candidate does not execute the indemnity bond, then such candidate is liable to recompense the government by paying a penal amount of Rs. 10,00,000/- (rupees ten lac) for every defaulting year. To ensure successful completion of the bond period, the original educational documents of the candidates are retained by the department. During the bond period the doctors are designated as Senior Resident.

37. The petitioners contend that the period of three years is to be taken as the bond service period as a composite one. The same cannot be equated with regular employment under the State. The respondents argue that this period also has to be treated as appointment with the State.

38. The issue as to whether the bond service period can be taken as a period of appointment with the State fell for consideration before this Court in a batch of writ petitions first of which is WPA 12496 of 2025 in the matter of Dr. Aniket Mahata (supra). The Court vide judgment dated 30th July, 2025 held that the petitioners cannot be said to be appointed in the posts of Contractual Medical Officer (Specialist) or Senior Resident. Their engagement cannot be equated to appointment in a civil post or in a public office and

they cannot be treated as government servants. The Court was pleased to overrule the objection raised by the State as regards maintainability of the writ petition at the instance of Dr. Aniket Mahata (supra) by observing that the Senior Resident is not a government servant holding any public office.

39. The aforesaid order passed by the learned Single Judge was affirmed by the Hon'ble Division Bench on 6th August, 2025 in a batch of appeals first of which is MAT 1224 of 2025 with IA CAN 1 of 2025 (The State of West Bengal & Ors. –vs- Dr. Debasish Halder & Ors.) wherein the Hon'ble Division Bench clearly held that the Senior Resident deployment is subject to the conditions incorporated in the bond and is bereft of the protection that is normally available to a government servant under Article 311 of the Constitution.

40. In view of the law laid down by the Hon'ble Division Bench in the matters mentioned hereinabove, if can be safely concluded that the petitioners are merely serving the State Government on bond but are not regular appointees or employees of the State.

41. Though argument has been advanced by the petitioners that the roster-based posting cannot be made applicable to the Senior Residents who are serving the State on bond, but the Court consciously refrains from adjudicating such issue in the instant writ petition. None of the fresh batch of Senior Residents who will join the bond service for the first time has challenged the application of the roster-based posting. Deciding the said issue on merit in the instant writ petition will have a direct effect on them.

42. Here, consideration of the Court is only restricted to adjudicate as to whether new terms and conditions can be implemented in respect of the petitioners who have completed a part of their bond service in terms of the previous SOP. Assuming that such a policy is to be implemented by the State, the same can be applied in respect of the candidates at the time of commencement of their bond service. The petitioners have already concluded the first year of the three years' bond service period.

43. As per the earlier SOP dated 16th February, 2023, the Directorate of Medical Education is required to collect the particulars of the non-service candidates on their successful completion of the course from the concerned medical colleges and hospitals/universities/teaching institution. On the basis of the collected particulars, a merit list is prepared by the Directorate of Medical Education. Counselling is conducted relying on such merit list for the initial period of one year.

44. After completion of the first year bond service, the Directorate of Health Services along with the concerned branch of the department, appoints the candidates at different secondary tier hospitals and rural hospitals in the State through further counselling based on the same merit list relying on which the initial counselling for the first year bond service was done. The SOP does not mention about preparation of a further roster-based merit list at the time of commencement of the last two years of the bond service period.

45. Tej Prakash Pathak (supra) lays down that eligibility criteria for being placed in the select list notified at the commencement of the recruitment process,

cannot be changed midway through the recruitment process unless the extant rules so permit. Even if such change is permissible, the same have to meet the requirement of Article 14 of the Constitution and satisfy the test of non-arbitrariness.

46. Assuming that the Senior Residents are recruited for three years, then the merit list relying in which they were initially recruited cannot be changed after one year of the bond service period. The SOP 2023 does not provide for preparation of fresh roster-based list on completion of the first year and at the start of the second year. The same is contrary to the eligibility criteria prescribed at the initiation of the recruitment process.

47. The impugned SOP dated 11th June, 2026 has been adopted in supersession of all previous SOP and the same has been made applicable in respect of Senior Residents under indemnity bond who have completed post graduate degree course for the year 2025-26. The impugned SOP also mentions about collection of data of the candidates on completion of their course. The counselling is done based on the merit list prepared on the basis of the collected data and the vacancies are filled up as per the 100 point roster prepared by the State.

48. Though the impugned SOP mentions about the Senior Residents who completed their course in the year 2025-26, but the Circular dated 3rd August, 2026 mentions about capturing the data of the candidates eligible for re-engagement of post graduate degree candidates who passed out in December, 2024. The further Circular dated 12th September, 2026 also mentions about the candidates who passed out in December, 2024. The year

of passing out of Senior Residents as mentioned in the SOP dated 11th June, 2026 differs from the year of passing out of the candidates as mentioned in the Circulars dated 3rd August, 2026 and 12th September, 2026. The subsequent Circulars issued for implementing the SOP dated 11th June, 2026 appears to be inconsistent with each other.

49. Admittedly, when the Senior Residents passed out in December, 2024 and started their first tranche of bond service in mid-2025, SOP 2023 was prevailing. The candidates executed the bond keeping in view SOP 2023. The entire bond service period is of three years. In the first tenure of one year, the Senior Resident is posted at different medical colleges and hospitals and for the remaining period of two years, they are posted at different secondary tier hospitals and rural hospitals as per the requirement of specialist at such hospitals throughout the State. The petitioners have already completed their first year and in the balance bond period, they would be obliged to serve at different secondary tier hospitals and rural hospitals as per requirement.

50. All the candidates who executed bond and have joined their bond service period in 2025 are aware of their inter-se position in the merit list. With the implementation of the impugned SOP where roster-based reservation has been introduced, the inter-se position of the candidates in the merit list gets altered. Due to change of the position in the merit list, a Senior Resident may not get to serve in a hospital as per choice as the roster-based vacancy may not be available.

51. Though it is true that one cannot assert with certainty that he or she would get a chance to serve in a particular hospital, but at the same time, a better

position in the combined merit list always enhances the chance of securing a hospital of his/ her choice. The same choice may not be available if counselling is conducted based on the reservation roster.

52. The act of the authority in implementing the impugned SOP by applying the same retrospectively in the midst of the three-year bond service period will certainly fall foul of the principle- the rules of the game cannot be changed after the game had begun. Here, the game actually began in the year 2024 when the doctors passed their post graduate course and joined as Senior Residents in mid- 2025 by executing the bond valid for three years. In the middle of 2026, after finishing the first year, the authority ought not to change the terms and conditions of service.

53. Submission of the respondents that none but only two Senior Residents have complained about the implementation of SOP 2026 and others have already filled in their details without any objection for which the Court ought not to entertain the writ petition cannot be accepted by the Court. Any person aggrieved by any action and/or inaction on the part of the authority has the legal right to approach the judicial forum for relief.

54. It is not necessary that all persons will be aggrieved by the impugned SOP 2026. Senior Residents whose position in the merit list has gone down will be aggrieved by the new SOP. On the contrary, Senior Residents who will get the benefit of reservation will favour implementation of the same. Those who joined the bond service in 2025 were not aware that roster-based posting would be implemented in the middle of their term. At the time of joining each of the Senior Residents knew their position in the combined merit list. Now

the reserved category candidates cannot allege that their right has been infringed in any manner as the right of reservation posting in the second year never existed at the time of joining the bond service.

55. In view of the discussions made herein above, the Court is of the considered opinion that implementing the impugned SOP 2026 in respect of the batch of Senior Residents who started bond service in the year 2025 relying upon SOP 2023 will not be proper. The batch which started bond service relying on SOP 2023 ought to be permitted to conclude their bond service on the basis of SOP 2023. Thrusting SOP 2026 in the midst of the three-year bond service period will not only be improper but also illegal.

56. The respondents are directed to permit the petitioners to conclude their bond service period relying upon SOP 2023.

57. The writ petition stands disposed of.

58. No costs.

59. All parties to act on the basis of the server copy of this judgment duly downloaded from the official website of this Court.

60. Urgent certified photocopy of this judgment, if applied for, be supplied to the parties or their advocates on record expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)