

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE : HON'BLE JUSTICE SAUGATA BHATTACHARYYA

W.P.A. 27328 of 2025

SHAYAN SACHIN BASU

VS.

THE STATE OF WEST BENGAL & ORS.

For the Petitioner : Mr. Shuvro Prakash Lahiri, Advocate
Mr. Rajesh Naskar, Advocate
Mr. Ranit Mukherjee, Advocate
Mr. Ankan Mondal, Advocate

For the State : Mr. Vivekananda Bose, Advocate
Ms. Mousumi Banerjee, Advocate

For the PSC : Ms. Piyali Sengupta, Advocate
Mr. Victor Chatterjee, Advocate
Mr. Pramitava Nath, Advocate
Ms. Shreya Bhattacharjee, Advocate

For the High Court
Administration : Mr. Debashis Banerjee, Advocate
Mr. Rakesh Jana, Advocate

Hearing concluded on : 12th May, 2026

Judgment on : 20th May, 2026

Saugata Bhattacharyya, J.:

1. Petitioner is an eligible candidate for offering his candidature in West Bengal Judicial Service Examination (for short 'WBJs Examination'), 2023 and 2024 presented this writ petition, *inter alia*, praying for direction to incorporate three years practice as an advocate being an eligibility criterion for being considered to be appointed as Civil Judge (Junior Division) in West

Bengal Judicial Service. According to petitioner, incorporation of eligibility criterion of having practice of three years or more as an advocate is required in terms of the judgment of the Supreme Court dated 20th May, 2025 passed in **All India Judges Association & Others vs. Union of India & Others**.

2. Mr. Shuvro Prakash Lahiri, learned advocate representing the petitioner submits that for WBJs Examination, 2023 and WBJs Examination, 2024, first an indicative advertisement no. 19/2023 dated 28th December, 2023 and another advertisement being no. 09/2024 dated 7th December, 2024 were issued by the concerned authority of Public Service Commission, West Bengal (for short 'Commission'). Final advertisements were issued for WBJs Examination 2023 and 2024 on 13th August, 2025 by the Commission being advertisement nos. 19/2023 and 09/2024 respectively.
3. It was pointed out on behalf of petitioner that one of the requisite qualifications for offering candidature in WBJs Examinations 2023 and 2024 is his/her enrolment as an advocate in the roll of Bar Council of any State or Union Territory in India on the date of advertisement but it is not stipulated therein that the candidate is required to have practiced three years or more as an advocate which is contrary to the judgment of the Supreme Court delivered in **All India Judges Association** (supra). In this regard, reliance is placed on paragraphs 89(vii), 89(viii), 89(ix) and 89(x) of **All India Judges Association** (supra). It was submitted absence of eligibility criterion of minimum three years practice as an advocate in the advertisements dated 13th August, 2025 for holding WBJs Examinations

2023 and 2024 vitiated the process requiring the concerned respondent authorities to initiate fresh selection process by publishing advertisements taking note of the observations as contained in **All India Judges Association** (supra).

4. It was also argued that indicative advertisements dated 28th December, 2023 for WBJS Examination, 2023 and subsequent advertisement dated 7th December, 2024 for holding WBJS Examination, 2024 are not the formal advertisements marking initiation of selection process for filling up the post of Civil Judge (Junior Division). According to petitioner, without disclosing requisite eligibility criteria if advertisements are made that may not be treated as formal advertisements requiring the recruiting authority to publish detailed advertisement stipulating eligibility criteria which may be construed as commencement of selection process. In the present case advertisements dated 13th August, 2025 for both the selection processes i.e. WBJS Examination, 2023 and WBJS Examination, 2024 need to be regarded as formal advertisements marking commencement of selection process.

5. It was also contended in Sikkim and Telangana first rules relating to judicial service examination were amended and then selection process commenced. In State of West Bengal it was argued that in terms of the judgment in **All India Judges Association** (supra) rules relating to judicial examination for filling up the post of Civil Judge (Junior Division) were required to be amended prior to initiation of selection process.

6. According to the petitioner in **All India Judges Association** (supra) Supreme Court in paragraph 89(ix) directed incorporation of minimum years of practice as an advocate being one of the eligibility criteria from the next recruitment process; it is necessary to incorporate three years practice as an advocate an eligibility criterion in the advertisements before initiating selection process i.e. WBJS Examination, 2023 and WBJS Examination, 2024.
7. On the proposition that publication of advertisement prior to selection process needs to be regarded as commencement of selection process following judgments were relied upon:-
 - (i) **(2014) 14 SCC 50 (Renu & Ors. vs. District and Sessions Judge, Tis Hazari & Anr.)**
 - (ii) **2025 SCC OnLine SC 280 (Amrit Yadav vs. State of Jharkhand & Ors.)**
 - (iii) **AIR OnLine 1990 SC 20 (A.P. Public Service Commission, Hyderabad vs. B. Sarat Chandra)**
 - (iv) **(2025) 2 SCC 1 (Tej Prakash Pathak & Ors. vs. Rajasthan High Court & Ors.)**
8. Mr. Vivekananda Bose, learned advocate representing the state respondents submitted that for filling up the post of Civil Judge (Junior Division) in the West Bengal Judicial Service for the year 2023 & 2024 vacancies were notified by the High Court prior to judgment delivered by the Supreme Court in **All India Judges Association** (supra). Vacancies were notified on 19th October, 2023 for WBJS Examination, 2023 and for WBJS

Examination, 2024, notification was issued on 5th March, 2025 by the High Court Administration which was addressed to the Principal Secretary to the Government of West Bengal, Judicial Department whereas judgment in **All India Judges Association** (supra) was delivered on 20th May, 2025. In this regard, reliance is placed on paragraph 89 (ix) of **All India Judges Association** (supra) wherein it was held incorporation of eligibility criteria of minimum years of practice shall not be applicable in cases where the concerned High Court already initiated the selection process for the post of Civil Judge (Junior Division) prior to the date of judgment and shall be applicable only from the next recruitment process.

9. It was contended as the direction was upon the High Court relating to initiation of selection process for filling up the post of Civil Judge (Junior Division) by taking necessary steps and in the present case prior to the date of judgment in **All India Judges Association** (supra) vacancies were notified by the High Court, respondent authorities are required to take steps in terms of directions of the Supreme Court as contained in the judgment dated 20th May, 2025 from the selection process of 2025 by amending rules.
10. Submissions were made to distinguish ratio of **Tej Prakash Pathak** (supra) in the backdrop of Article 229 and Article 234 of the Constitution; in **Tej Prakash Pathak** (supra) Supreme Court was considering appointments in the post of Translators in Rajasthan High Court which comes under the ambit of Article 229 where appointing authority is the Chief Justice of the High Court whereas in the present case appointments in

the post of Civil Judge (Junior Division) comes under the purview of Article 234 where appointing authority is Governor of the State in accordance with rules which apply in such recruitment after consultation with the State Public Service Commission and with the High Court. According to state respondents, observation made by the Supreme Court in paragraph 65.1 of **Tej Prakash Pathak** (supra) is in the context of different recruitment rules and the recruitment process as contemplated under Article 229 of the Constitution which may not apply in the present case.

11. It was argued by Mr. Debashis Banerjee, learned advocate representing the High Court Administration that posts of Civil Judge (Junior Division) are filled up in terms of Rule 8 of the West Bengal Judicial (Conditions of Service) Rules, 2004 (hereinafter referred to as the 'said Rules of 2004'). It was also submitted that High Court Administration is required to identify nature of vacancies and number of vacancies to be filled up in a particular year and same to be notified to the Judicial Department, Government of West Bengal. Judicial Department, Government of West Bengal in its turn is required to forward notification of vacancies issued by the High Court to the Commission for conducting examination upon taking necessary steps. In this regard, reliance was placed on the judgment reported in **(2008) 17 SCC 703 (Malik Mazhar Sultan (3) vs. Uttar Pradesh Public Service Commission & Others)**. Method of recruitment in the post of subordinate judicial service in different States including State of West Bengal was considered by the Supreme Court and in paragraph 7D in a tabular form it

was specified the steps which are required to be taken for filling up the post of Civil Judge (Junior Division) by direct recruitment. According to High Court Administration, in said paragraph 7D of **Malik Mazhar Sultan (3)** (supra) it is indicated that High Court is required to notify vacancies for each year which is commencement of selection process for filling up the post of Civil Judge (Junior Division). As per said Rules of 2004 and the observations made by the Supreme Court in **Malik Mazhar Sultan (3)** (supra) vacancies are required to be notified to the Judicial Department, Government of West Bengal and thereafter on forwarding such notification of vacancies commission to take steps by issuing advertisement.

12. Submissions were also made on behalf of commission based on advertisements published at two stages. First for WBJS Examination 2023 indicative advertisement was issued on 28th December, 2023 and for WBJS Examination 2024 indicative advertisement was issued on 7th December, 2024 and subsequently two separate advertisements were made on 13th August, 2025 for WBJS Examination 2023 and WBJS Examination 2024 for filling up the posts of Civil Judge (Junior Division) disclosing different aspects of recruitment procedure. It was contended on behalf of Commission that advertisements dated 13th August, 2025 may not be read in isolation without considering first indicative advertisements dated 28th December, 2023 and 7th December, 2024. According to Commission, date of advertisement may be reckoned with date of indicative advertisements and subsequent advertisements dated 13th August, 2025 merely elaborated

different aspects of method of recruitment for instance prescribed age limit of candidate is to be reckoned with date of indicative advertisements not the date of subsequent advertisements published on 13th August, 2025 in connection with both the selection processes namely, WBJS Examination, 2023 and WBJS Examination, 2024.

13. Furthermore, there was clarification as published on 23rd August, 2025 by concerned authority of Commission clarifying qualification of candidates and date of advertisement were to be reckoned with date of indicative advertisements dated 28th December, 2023 and 7th December, 2024. It was also clarified in the aforesaid clarification dated 23rd August, 2025 by the Commission that date of enrolment as an advocate on the roll of Bar Council of any State or Union Territory in India was to be reckoned with the dates of indicative advertisements dated 28th December, 2023 for WBJS Examination, 2023 and 7th December, 2024 for WBJS Examination, 2024. Therefore, it was submitted on behalf of Commission indicative advertisements dated 28th December, 2023 and 7th December, 2024 need consideration in arriving at conclusion regarding commencement of selection process for filling up the posts of Civil Judge (Junior Division) for the year 2023 & 2024.

14. It was also pointed out in reference to two letters dated 19th October, 2023 for WBJS Examination, 2023 and another letter dated 5th March, 2025 for WBJS Examination, 2024 issued by the High Court Administration to the Judicial Department, Government of West Bengal that in both cases

vacancies were first reported vide letters dated 27th June, 2023 and 19th April, 2024 which stood modified by subsequent letters dated 19th October, 2023 and 5th March, 2025 respectively. Stand was also taken on behalf of Commission that ball was set in motion when on behalf of High Court Administration vacancies were notified by aforesaid letters which were addressed to Judicial Department, Government of West Bengal and subsequently same were received by the Commission.

15. In consideration of the case made out on behalf of petitioner and taking note of the submissions made on behalf of parties it is found that selection process for filling up the post of Civil Judge (Junior Division) for the year 2023 & 2024 was initiated by the High Court Administration on notifying vacancies of the respective years to the Judicial Department, Government of West Bengal. Such exercise on the part of High Court Administration is necessary in terms of the observations made by the Supreme Court in **Malik Mazhar Sultan (3)** (supra). On receipt of vacancy notifications Commission took steps first by issuing indicative advertisements dated 28th December, 2023 for WBJS Examination, 2023 and on 7th December, 2024 for WBJS Examination, 2024. While issuing such indicative advertisements it was stated therein that detailed information regarding commencement and closing date for online applications, age limit, qualifications, scale of pay, fees to be paid through online and offline mode, scheme and syllabus of the examination would be available in the Commission's website shortly. Details of websites were also indicated in those two indicative advertisements.

Subsequently advertisements were made on 13th August, 2025 disclosing details of method of recruitment, eligibility criteria of candidates, time period for submitting application as per indicative advertisements. Thereafter, a clarification was issued on 23rd August, 2025 stating therein that qualification of candidate and date of advertisement were to be reckoned with date of indicative advertisements i.e. 28th December, 2023 and 7th December, 2024.

16. In aforesaid backdrop having considered the case made out on behalf of petitioner this court is tasked to decide whether selection process for filling up the post of Civil Judge (Junior Division) for the year 2023 & 2024 commenced with publication of advertisements on 13th August, 2025 or not.
17. Reliance was placed on behalf of petitioner on **B. Sarat Chandra** (supra); observations made in **B. Sarat Chandra** (supra) were considered by a later judgment of the Supreme Court reported in **(2011) 3 SCC 267 (Pawan Pratap Singh & Others vs. Reevan Singh & Others)**. In paragraph 7 of **B. Sarat Chandra** (supra) it was observed in reference to the interpretation attributed by the Tribunal in the context of relevant selection process the process of selection begins with issuance of advertisement and ends with preparation of select list for appointment. Same was taken into consideration in **Pawan Pratap Singh** (supra) in the context of determination of seniority between two groups of direct recruits. In paragraph 45(i) of **Pawan Pratap Singh** (supra) it was held the effective date of selection has to be understood in the context of the service rules under

which the appointment is made. It may mean the date on which the process of selection starts with the issuance of advertisement or factum of preparation of select list, as the case may be. Therefore, in the present case too method of selection is relevant consideration to trace the initiation of selection process for recruiting in the post of Civil Judge (Junior Division).

18. Paragraphs 89(vii), 89(viii), 89 (ix) and 89 (x) of **All India Judges Association** (supra) are quoted below:-

“89. In view of the aforesaid discussion, we issue the following directions:

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(vii) All the High Courts and the State Governments in the country shall amend the relevant service rules to the effect that candidates desirous of appearing in the examination for the post of Civil Judge (Junior Division) must have practiced for a minimum period of 3 years to be eligible for the said examination. To fulfill the said requirement, the Rules shall mandate that the candidate produces a certificate to that effect duly certified either by the Principal Judicial Officer of that Court or by an advocate of that Court having a minimum standing of 10 years duly endorsed by the Principal Judicial Officer of such a District or a Principal Judicial Officer at such a station. Insofar as the candidates who are practicing before the High Courts or this Court, they shall be certified by an advocate who has a minimum standing of 10 years duly endorsed by an officer designated by that High Court or this Court. We further direct that the experience of the candidates which they have gained while working as Law Clerks with any of the Judges or Judicial Officers in

the country should also be considered while calculating their total number of years of practice. The Rules shall also mandate that the candidates who are appointed to the post of Civil Judge (Junior Division) pursuant to their selection through the examination must compulsorily undergo at least 1 year of training before presiding in a Court;

(viii) It is directed that the number of years of practice completed by a candidate desirous of appearing in the examination for the post of Civil Judge (Junior Division) be calculated from the date of their provisional enrolment/registration with the concerned State Bar Council;

(ix) It is further directed that the said requirement of minimum years of practice shall not be applicable in cases where the concerned High Court has already initiated the selection process for the post of Civil Judge (Junior Division) prior to the date of this judgment and shall be applicable only from the next recruitment process; and

(x) All the amendments in terms of the aforesaid direction shall be carried out by the High Courts within a period of three months from the date of this judgment and the concerned State Governments shall consider and approve the same within a further period of three months.”

(Emphasis Supplied)

19. In paragraph 89(ix) it was observed by the Supreme Court that requirement of minimum years of practice shall not be applicable in cases where concerned High Court already initiated the selection process for the post of Civil Judge (Junior Division) prior to the date of this judgment and shall be applicable from the next recruitment process. Taking note of method of recruitment as directed by the Supreme Court in **Malik Mazhar**

Sultan (3) (supra) High Court is required to forward notification of vacancy on identifying number of vacancies and nature of vacancies to the Judicial Department, Government of West Bengal and subsequently, Judicial Department, Government of West Bengal is required to forward notification of vacancy to the Commission. In the present case it was disclosed in the affidavit affirmed on behalf of High Court Administration that for WBJs Examination, 2023 vacancies were notified vide letter dated 19th October, 2023 of the Registrar General and for WBJs Examination, 2024 vacancies were notified vide letter dated 5th March, 2025 of the Registrar General whereas judgment was delivered in **All India Judges Association** (supra) on 20th May, 2025. Normally selection process is set in motion with issuance of advertisement but method of selection process in the present case is a relevant consideration when in paragraph 89(ix) of **All India Judges Association** (supra) it was specifically held that where the concerned High Court already initiated selection process for filling up the post of Civil Judge (Junior Division) prior to the judgment dated 20th May, 2025 revised eligibility criteria of minimum three years practice as an advocate shall be applicable from the next recruitment process.

20. In terms of Article 234 of the Constitution appointments in the post of Civil Judge (Junior Division) needs to be made by the Governor of the State in accordance with rules made by the Governor after consultation with the State Public Service Commission and with the High Court exercising jurisdiction in relation to such State. In addition thereto Supreme Court in

paragraph 89(vii) of **All India Judges Association** (supra) directed all the High Courts and State Governments shall amend the relevant service rules to the effect that candidates desirous of appearing in the examination for the post of Civil Judge (Junior Division) must have practiced for a minimum period of three years to be eligible for the said examination. Therefore, before incorporation of eligibility criterion of having minimum three years practice as an advocate for being considered to the post of Civil Judge (Junior Division) recruitment rules require amendment. It is disclosed in the affidavit affirmed on behalf of Commission that vide letter dated 21st November, 2025 modified draft recruitment rules in terms of the judgment of **All India Judges Association** (supra) was forwarded to the Principal Secretary, Government of West Bengal, Judicial Department. High Court Administration as well as concerned State authorities are to finalize amended recruitment rules regulating recruitment to the West Bengal Judicial Service and suitable notification to be issued in this regard strictly in terms of the directions as contained in judgment dated 20th May, 2025 of the Supreme Court in **All India Judges Association** (supra) which would enable the authorities to conduct recruitment to the post of Civil Judge (Junior Division) in West Bengal Judicial Service by following the dicta of Apex Court from the next selection process.

21. Reliance was placed on **Tej Prakash Pathak** (supra) on behalf of petitioner. In paragraphs 65.2 and 65.3 of **Tej Prakash Pathak** (supra) Five Judge Bench of the Supreme Court taking note of the ratio in **K. Manjusree**

vs. State of Andhra Pradesh reported in (2008) 3 SCC 512 and **State of Haryana vs. Subhas Chander Marwaha** reported in (1974) 3 SCC 220 reference was answered that application of ratio of above two judgments are in two separate fields. **Subhas Chander Marwaha** (supra) deals with right of appointment from select list whereas **K. Manjusree** (supra) deals with right to be placed in select list. Much reliance was placed on paragraph 65.1 of **Tej Prakash Pathak** (supra) wherein it was observed that recruitment process commenced from issuance of advertisement calling for applications and ends with filling up of vacancies and it was argued that 13th August, 2025 needs to be considered formal commencement of selection process for recruiting Civil Judge (Junior Division) for the year 2023 & 2024. But different issue invites attention of this court while deciding present writ petition. In the context of relevant recruitment rules applicable for appointment of Civil Judge (Junior Division) in West Bengal Judicial Service after number and nature of vacancies were intimated to Judicial Department of Government of West Bengal for recruitment for the year 2023 & 2024 incorporation of eligibility criterion of three years legal practice in said selection process as per dicta of **All India Judges Association** (supra) is indispensable or not. Answer is found in judgment of **All India Judges Association** (supra) in paragraph 89(ix) as quoted above. Initiation of selection process by the High Court in terms of **All India Judges Association** (supra) is forwarding of vacancies (number and nature) to the State authorities taking note of manner of selection process. At the cost of repetition reliance is placed on **Pawan Pratap Singh** (supra) wherein

Supreme Court placing reliance on **B. Sarat Chandra** (supra) held in paragraph 45(i) that effective date of selection process has to be understood in the context of service rules under which the appointment is made.

22. In **Renu** (supra) and **Amrit Yadav** (supra) Supreme Court laid emphasis on the contents of advertisement for public appointment. It was held in those judgments that advertisement to be published prior to public appointment must disclose number of post available for selection and recruitment, qualifications and other eligibility criteria for such post, schedule of recruitment process and the rules under which the selection is to be made. Requirement of including these aspects in the advertisement prior to public appointment was reiterated in paragraph 19 of **Amrit Yadav** (supra). On conjoint reading of indicative advertisements and subsequent advertisements dated 13th August, 2025 for conducting WBJS Examination 2023 & 2024 it ought not to be deduced that the aforesaid advertisements lack particulars which are required to be disclosed as per dicta of **Renu** (supra) and **Amrit Yadav** (supra).

23. Petitioner is an eligible candidate who could have offered candidature pursuant to advertisements for participating in WBJS Examination 2023 & 2024 but chose not to participate in selection process due to non-incorporation of eligibility criterion of three years practice as an advocate thereby prayed for direction to amend eligibility criteria before initiating fresh selection process for the year 2023 & 2024. Court finds it apt to quote paragraph 44 of three Judge Bench judgment of this court reported in **2019**

SCC OnLine Cal 381 delivered on batch of matters first one being **Managing Committee, Kadamtala High Madrasah vs. State of West Bengal & Ors.:-**

“44. Law being fairly well-settled that even an eligible candidate, who might have been found suitable by the selectors and thus selected, has no vested right of appointment, the proposition seems to me to be unsound that a candidate who wishes to take part in a selection process and might have offered his candidature or even taken part in such process without a final panel/merit list having been prepared, could claim a better right (than candidates selected) that the selection process must not only be taken forward but that too in accordance with the rules in force on the date the process commenced, notwithstanding that such rules may have been amended or repealed during the continuance of such process. That a candidate for a public post has a right to claim fair consideration of his candidature admits of no doubt, but to enforce a right, if at all, the minimum that is required of him is to show that he has been empaneled/enlisted. However, so long the amendment that is effected in the governing rules and is sought to be enforced soon after the selection process has commenced or even in the midst thereof does not impair his right of participation and also does not impede a fair consideration of his candidature, it is difficult to comprehend on what basis could a candidate for a public post claim that the process must move forward without the amendments, insofar as they are relevant, being enforced and to take the selection process to its logical conclusion on the basis of the unamended rules. If it were a case a repeal of the earlier rules by a new set of rules, and initiation of the selection process based on the former not being saved by the latter, the recruitment process itself has to be aborted and commenced afresh in the tune with the new rules.”

24. Observations made by Justice Dipankar Datta in paragraph 44 while concurring with the view expressed by Justice Tapabrata Chakraborty made it amply clear that candidate not being empaneled and selected is not authorized to claim selection process must move forward without the amendments and to take the selection process to its logical conclusion on the basis of unamended rules. In **Managing Committee, Kadamtala High Madrasah** (supra) desirous candidates were seeking conclusion of selection process in terms of unamended rules wherein it was observed in paragraph 44 that candidate does not possess right to claim completion of selection process in terms of particular recruitment rules, at best candidate for public post has right to claim fair consideration of his candidature in the event he is empaneled/enlisted. Here instead of possessing requisite qualification/eligibility criteria petitioner chose not to participate in the selection process unless eligibility criteria is amended in terms of the observations made by the Supreme Court in **All India Judges Association** (supra), though it was made clear by the Supreme Court in paragraph 89(vii) that High Courts and State Governments shall first amend the relevant service rules to the effect that candidates desirous of appearing in the examination for the post of Civil Judge (Junior Division) must have practiced for a minimum period of three years to be eligible for the said examination. It was also held in paragraph 89(ix) that requirement of minimum years of practice shall not be applicable in cases where concerned High Court has already initiated the selection process for the post of Civil

Judge (Junior Division) prior to date of the judgment. In terms of the observations made by the Supreme Court in **All India Judges Association** (supra) service rules are required to be amended for incorporation of eligibility criteria for the post of Civil Judge (Junior Division) and in this regard steps have been taken by the respondent authorities as disclosed in the affidavit filed on behalf of the Commission. But when steps were taken by the respondent authorities including High Court for initiating selection process prior to 20th May, 2025 it was open to the petitioner to participate in the selection process being an eligible candidate instead of seeking initiation of fresh selection process on amending service rules; such claim of the candidate was negated in **Managing Committee, Kadamtala High Madrasah** (supra).

25. In aforesaid conspectus steps taken by the concerned respondent authorities for conducting WBJS Examinations, 2023 & 2024 for recruiting Civil Judge (Junior Division) are not interfered with and the writ petition is dismissed. However respondent authorities are directed to conduct selection process following the observations and directions contained in **All India Judges Association** (supra) from the next year by incorporating requisite eligibility criteria as per direction of the Supreme Court.
26. Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(SAUGATA BHATTACHARYYA, J.)