

**M.A.T. 2122 of 2025
With
I.A. No. CAN 1 of 2025**

**Ratikanta Barui & Ors.
Versus
State of West Bengal & Ors.**

Ms. Chaitali Mukhopadhyay

...for the appellant

Mr. Sekhan Mustapho
Mr. Prasanta Kr. Giri
Mr. Priyabrata Ghosh

...for the State

PER, PARTHA SARATHI SEN, J.:-

1. The affidavit of service as filed today on behalf of the appellants, are taken on record.
2. The appellants, the respondent/ State and its instrumentalities and the private respondents are represented by their respective learned Advocates.
3. In this intra-Court appeal the order dated 12.09.2025 as passed by the learned Single Bench of this Court in WPA 21218 of 2025 (***Krishnagopal Das Vs. The State of West Bengal and Ors.***) is impugned. By the impugned order learned Single Bench while disposing the said writ petition directed the police authorities to ensure that in the event the writ petitioner of the said writ petition faced any inconvenience relating to the water body where he

has been cultivating and harvesting in respect of fish seedlings/carrying out the pisciculture, the police authorities would render assistance for preventing any untoward incident.

4. Learned Advocate appearing on behalf of the appellants who are the private respondents in the said Writ petition strongly contended that it is the specific case of the present appellants that the appellant nos. 7 and 8 are the recorded owners of the plots of land, particulars of which have been mentioned in Paragraph 2 of I.A. No. CAN 1 of 2025 and the said recorded owners have permitted the appellants nos. 1 to 6 to carry out pisciculture in the said land which is a water body. It is submitted that suppressing such material facts the writ petitioner approached the writ Court projecting that the writ petitioner is practically carrying on his pisciculture activities in the self-same plots of land.

5. Drawing attention to page no. 61 to 66 of the I.A. No. CAN 1 of 2025 it is submitted that from the copies of the consignment/MO tracking report it would reveal that the copies of the writ petition were sent to the private respondents/appellants herein on 08.09.2025 and those were delivered by the postal authority to the present appellants on 18.09.2025 whereas the order impugned was passed on 12.09.2025 overlooking the fact that on the said very

day, service upon the private respondents remained incomplete.

6. It is thus submitted on behalf of the appellants that since the present appellants being the private respondents in the said writ petition could not appear before the learned Single Bench for want of service, the impugned order may be set aside.

7. Per contra, learned Advocate appearing on behalf of the writ petitioner however supported the order impugned. It is submitted that considering the factual matrix as involved in the said writ petition and considering the fact that a valuable right of the writ petitioner is infringed at the instance of the respondents, learned Single Bench is very much justified in passing the appropriate order.

8. Learned Advocate appearing on behalf of the respondent State echoed the version of the writ petitioner.

9. On careful consideration of the entire materials as placed before this Court and after giving due opportunity of hearing to the learned Advocates for the contending parties, we are satisfied that the learned Single Bench while passing the order impugned overlooked that service upon the private respondents in the said writ petition was not completed. Admittedly sufficient materials have been placed that notice to the said writ petition was sent

to the appellants who are the private respondents in the said writ petition on 08.09.2025 and those were delivered on 18.09.2025.

10. In view of such, we hold that the present appellants who are the private respondents in the said writ petition ought to have obtained opportunity of hearing prior to disposal of the said writ petition.

11. Consequently, the instant appeal is allowed.

12. Consequently, the impugned order dated 12.09.2025 as passed by the learned Single Bench in WPA 21218 of 2025 is hereby set aside.

13. WPA 21218 of 2025 is remanded to the learned Court having appropriate determination forthwith, with a request to the learned Single Bench to dispose of WPA 21218 of 2025 after giving due opportunity of hearing to the writ petitioners, the respondent/ State and its instrumentalities as well as the private respondent nos. 8 to 13 of the said writ petition.

14. With the disposal of the instant appeal CAN 1 of 2025 is also disposed of.

15. Urgent photostat certified copy of this judgment, if applied for, be given to the parties on completion of usual formalities.

(SUJOY PAUL, C.J.)

(PARTHA SARATHI SEN, J.)