01. 08.11.2026
(D/L) CT. NO. 07
(ARPAN-A.R.CT.)

In The High Court at Calcutta

CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 31616 OF 2026
WITH
CAN 1 OF 2026

AJAY UPADHYAY
VS.
THE STATE OF WEST BENGAL AND OTHERS
AND
THE COMMISSIONER OF POLICE, ASANSOLE-DURGAPUR POLICE COMMISSIONERATE, WB AND ANOTHER

....APPLICANTS

.....

Mr. Sankar Prasad Dalapati, AGP
Mr. Atanu Basu, Adv.
Mr. Indranuj Dutta, Adv.

... For Applicants/ Respondents

Mr. Supratim Dhar, Sr. Adv.
Mr. Dhananjay Nayak, Adv.
Mr. Anubhav Upadhyay, Adv.

... For Writ Petitioner

IN RE: CAN 1 OF 2026

1. This is an application being CAN 1 of 2026, filed by the respondent nos.2 and 5 seeking modification of the order dated 6th November, 2026, passed in *WPA 31616 of 2026*.

2. The said writ petition was taken up for consideration on 6th November, 2026, and the operative portion of the said order is set out herein-below:

> *"5. In view of the above, the Officer-in-Charge, Asansol(North) PS, ADPC is directed to issue a formalpermission by tomorrow, that is on 07.11.2026,preferably within 1.00 p.m.*

6. *Mr. Dhar submits that the petitioner had made acomplaint against the private respondent no. 9regarding his illegal activities and the petitionerapprehends that he may face difficulties inperforming the Puja smoothly.*

7. *The respondent No. 5/the Officer-in-Charge,Kanyapur Police Station, Paschim Bardhaman isdirected to consider the representation dated 27th October, 2026, submitted by the petitioner and he isfurther directed to take necessary steps, if necessary,in accordance with law."*

3. Mr. Sankar Prasad Dalapati, learned Additional Government Pleader, representing the applicants, refers to paragraphs 5 to 10 of this application and submits that Rajib Sangha Club, Panchgachia (hereinafter referred to as *"the said club"*) already submitted an online application seeking permission to hold Kali Puja for the year 2026 whereas no online application has been submitted by the writ petitioner, but he submitted an offline application. Moreover, he submits that the land in question, where the said club intends to perform Kali Puja, belongs to Railway Authorities, Government of India and no 'No Objection Certificate' has been submitted either by the writ petitioner or by the private respondent, who is the purported President of the said club. In view of the above, Mr. Dalapati submits that difficulties are being faced by the police authority in implementing the order dated 6th November, 2026, and as such, necessary modification/clarification of the order dated 6th November, 2026, is required.

4. Mr. Dalapati furnishes a copy of the online application dated 31st October, 2026, submitted by the said club, and the same is taken on record.

5. *Per contra*, Mr. Supratim Dhar, learned Senior Advocate appearing for the writ petitioner submits that this application being *CAN 1 of 2026* is not maintainable as a disposed of writ petition cannot be reopened by filing a miscellaneous application. In support of such submission, Mr. Dhar cited a judgment of the Hon'ble Supreme Court reported in ***(1987) 2 SCC 179 (State of Uttar Pradesh versus Brahm Datt Sharma and another)***.

6. It is further submitted by Mr. Dhar, learned Senior Advocate, that the writ petitioner is the Secretary of the said club and the online application, as referred to by Mr. Dalapati, was submitted by some outsiders, who are allegedly claiming themselves to be the Secretary and President of the said club.

7. Mr. Dhar disputed the resolution dated 23rd October, 2026, which is annexed to the online application dated 31st October, 2026,whereby Mr. Gandhi Prasad Nonia and Mr. Rejesh Prasad Nonia were mentioned as the President and Secretary of the said club, respectively. According to Mr. Dhar, these persons, who had applied for permission to hold Kali Puja for the year 2026, do not have the locus standi or authority to seek such permission.

8. Heard the parties.

9. The law laid down in the judgment reported in ***State of Uttar Pradesh*** *(supra)* is well settled. However, this application is only for certain clarifications of the order dated 6th November, 2026 in view of the letters

issued — one by SRO-II & B.L. & L.R.O., Barabani, Paschim Bardhaman dated 7th November, 2026 addressed to the Officer-in-Charge, Asansol North Police Station and another by the Officer-in-Charge, Asansol (North) Police Station dated 6th October, 2026, addressed to the writ petitioner. Moreover, a party to a writ proceeding is always at liberty to seek necessary clarifications from the writ court for proper implementation of the order passed by it. In view of the above, the application is maintainable.

10. Having considered the rival submissions and materials placed on record, it appears that there is a dispute between the writ petitioner and the President of the said club being the respondent no.9 along with other persons who are the alleged Secretary and members of the said club. This issue cannot be decided in writ jurisdiction, as it involves a disputed question of fact. It is also not possible for the police authority to decide who are the actual President and Secretary of the said club. The police authority received an online application seeking permission for holding Kali Puja, 2026, and they proceeded on that basis.

11. The application seeking permission at page 150 of the writ petition, as referred to by Mr. Dhar, is an offline application dated 27th October, 2026, and the police authority rightly did not proceed on the basis of such application, which was not submitted through an official mode.

12. It is needless to mention here that there cannot be two permissions for holding Kali Puja, 2026, in respect of one club.

13. In view of the above, this Court clarifies the following:

i) The concerned police authority shall consider only the online application and only one permission shall be granted to the said club for performing Kali Puja, 2026, subject to the fulfillment of other conditions by the said club.

ii) It is further clarified that if the said club fails to produce a "No Objection Certificate" from the owner of the said land in question, where Kali Puja is scheduled to be performed, no permission shall be granted.

iii) The concerned police authority is directed to consider only the online application only and grant permission strictly in accordance with law and subject to fulfillment of all requisite conditions by 3:00 PM today and it is further directed to communicate the same by 3:30 PM today.

14. It is made clear that the grant of permission or rejection by the police authority shall not create any equity in favour of any of the parties.

15. With the above clarifications, the order dated 6th November, 2026 is modified to the above extent and the application being CAN 1 of 2026 stands disposed of.

16. Parties to act on the server copy of this order duly downloaded from the official website of this court.

(ARJUN RAY MUKHERJEE, J.)