

21.04.2026
Court No.7
Item No.8
pk/AP

**HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI**

**MAT 25 of 2026
With
CAN 1 of 2026**

**Smt. Sushma Agarwal
Vs.
State of West Bengal and Ors.**

Mr. Suresh Kumar Mitruka
Mr. Aayush Mitruka
Mr. Sujit Swami
Ms. Shruti Yadav

...for the Appellant.

Mr. Momenur Rahman
Mr. Sourav Sarkar

... For the State.

1. The appeal is directed against and order dated 11th February, 2026 passed by a Single Bench of this Court. The prayers in the writ petition were to seek review and recall of orders passed in an earlier writ petition. Evidently, the writ petitioner/appellant was not party to the previous writ petition. It is submitted that the orders passed in the earlier writ petition have seriously prejudiced and affected the rights of the writ petitioner.

2. While the writ was being considered for admission, the Single Bench, by the impugned order, was of the view that the appellant ought to have filed an appeal against the orders passed in the earlier two writ petitions. The writ petition was thus dismissed

by the impugned order holding the same to be not maintainable.

3. Learned counsel for the appellant, Mr. Mitruka has placed reliance upon a Constitutional Bench decision in the case of ***Shivdev Singh & Ors. Vs. State of Punjab & Ors.*** reported in ***1961 SCC OnLine SC 29*** particularly paragraph 10 thereof. It was held in the said judgment there is nothing in Article 226 of the Constitution of India to preclude the High Court from exercising the power of review. Review of an earlier order of a writ Court by a subsequent writ Court was found to be inherent under Article 226 of the Constitution of India. The said view has been applied by two Single Benches of this Court in the case of ***Diblu Naskar Vs. State of West Bengal & Ors.*** vide order dated 14th May, 2009 in ***WP No.3726 (W) of 2008*** and the case of ***Prabir Agasty & Ors. Vs. The State of West Bengal & Ors.*** vide order dated 1st May, 2018 in ***WP No.321 (W) of 2018.***

4. Indeed it is true that if a fresh writ petition can lie to enforce an order passed in an earlier writ petition then by the same logic, review and recall of an order passed in an earlier writ petition can also be sought in a subsequent writ petition.

5. The aforesaid principle appears to be consistent with the wide powers conferred on the

High Courts under Article 226 of the Constitution of India.

6. In view of the above, the impugned order dated 11th February, 2026 is set aside. The writ petition is restored to its file and number. The writ petitioner may mention it for inclusion in the list for admission of hearing upon due notice to the respondents.

7. Accordingly, MAT 25 of 2026 is allowed and disposed of. Consequently, CAN 1 of 2026 is also disposed of.

8. There shall be no order as to costs.

9. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Om Narayan Rai, J.)