

Form No. J(2)

In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Civil Appellate Jurisdiction
Appellate Side

Present: The Hon'ble Justice Sabyasachi Bhattacharyya
And
The Hon'ble Justice Supratim Bhattacharya

M.A.T 53 of 2026
IA No: CAN 1 of 2026

Abdul Hakim
Vs.
State of West Bengal and others

For the appellant	:	Mr. Debabrata Saha Roy, Sr. Adv. Mr. Pingal Bhattacharyya Mr. Shubhankar Das Mr. Sankha Biswas Mr. Deborshi Dhar Ms. Taniya Bhowmik
For the State	:	Mr. Jagriti Mishra, Id. AAAG Mr. Arijit Ghosh
Heard on	:	17.06.2026
Judgment on	:	17.06.2026

Sabyasachi Bhattacharyya, J.:-

1. The present appeal has been preferred against the judgment dated May 22, 2026 passed in WPA 1113 of 2025.

- 2.** In the said writ petition, the present appellant had assailed an order of the Second Appellate Authority, affirming those of the First Appellate Authority and the Licensing Authority in terms of the West Bengal Public Distribution System (Maintenance and Control) Order, 2013 [for short, referred to as the “2013 Control Order”], imposing penalty on the appellant, a Fair Price Shop (Ration Shop) Dealer under the Public Distribution System (PDS), for alleged offences under the 2013 Control Order.
- 3.** Learned senior counsel appearing for the appellant contends that the impugned orders of the two Appellate Authorities and the Licensing Authority were vitiated by several infractions of principles of natural justice, which were overlooked by the learned Single Judge.
- 4.** That apart, it is argued that the learned Single Judge apparently proceeded on the premise that the appellant had disbursed essential supplies against deactivated DRCs (Digital Ration Cards) even after such deactivation, whereas the plinth of the allegations against appellant, levelled by the respondent authorities, was that the disbursements were made during a period when the said DRCs were still active.
- 5.** Learned senior counsel contends that the complaint, which was the genesis of the show cause notice and referred to therein, as well as a report which was the very basis of the order of all the authorities was never supplied to the appellant.

6. Despite such point having been raised before both the Appellate Authorities, it was never adverted to by the said authorities.
7. That apart, it is argued that in the show cause notice itself, the Licensing Authority referred to interaction with DRC holders and a field enquiry but no particulars of the persons enquired were ever supplied to the appellant, nor was any opportunity to confront those people, by cross-examination or otherwise, was afforded to the appellant.
8. Learned senior counsel next places reliance on the copy of the said report which was annexed to the affidavit-in-opposition filed by the respondent authorities to the writ petition, which gives a purported break-up of the penalty ultimately calculated against the appellant.
9. However, it is submitted that the said calculations are entirely based on conjecture.
10. For example, in the first paragraph of the report dated February 1, 2024, it was mentioned that “number of AAY-DRC is given in the excel sheet shared by the Reform Cell instead of AAY family, hence *exact calculation of family entitlement drawn is not possible with current data*”.
11. Thereafter, the report proceeds to assume without any basis that there were five members per family per AAY DRC holder.
12. Thus, such surmise and conjecture invalidates the report, which again was the basis of the impugned orders.

- 13.** Even in the orders of the authorities, it is pointed out that no break-up or method of calculation was furnished, but surprisingly, all the authorities arrived at the exact amount of penalty that is reflected in the report.
- 14.** It is further pointed out that the report itself was authored even prior to the show cause notice; as such, the show cause notice was pre-meditated and the entire exercise of giving a purported hearing to the appellant was an eye-wash.
- 15.** Learned senior counsel appearing for the appellant further submits that the show cause notice was based on alleged offences committed under Paragraph 19, Clauses (12) and (16) of the 2013 Control Order.
- 16.** However, the said clause was introduced with its current amendments only with effect from September 29, 2023.
- 17.** During the initial teething period, it is submitted, the verifications at the time of disbursal to the DRC holders was being made partially on the basis of biometrics and partially by physical mode.
- 18.** It is submitted that this was the prevalent method throughout the State and as such the appellant could not be blamed for the same.
- 19.** Even otherwise, it is submitted that the very basis of the allegations against the appellant is that the activated DRCs which were issued to the holders thereof were subsequently

deactivated by the authorities themselves, in which the appellant did not have any role to play.

- 20.** However, by the basis of such post facto deactivation, it was retrospectively deduced that the disbursal prior to the deactivation was also vitiated, which is submitted to be a travesty of justice.
- 21.** Learned senior counsel also highlights that the complainant was an advocate residing far-off from the FPS of the appellant.
- 22.** Learned AAAG, appearing for the State, defends the impugned judgment as well as the orders of the authorities.
- 23.** It is sought to be pointed out from the show cause notice that the broad contours of all the allegations, on the basis of which the appellant was held guilty, were disclosed in the show cause notice itself.
- 24.** Learned AAAG submits that the show cause notice need not disclose the details of every offence committed but is required only to disclose the rudiments of such offences, which was done in the present case.
- 25.** It is submitted further that Item 8 of the show cause notice categorically mentioned that the distribution shown in the deactivated DRC holders was deviation of PDS commodities by the FPS dealer Abdul Hakim (present appellant), causing huge loss to the Government exchequer.

- 26.** Thus, the indictment of the appellant on the ground that the non-drawal register was not being maintained was indicated in the said clause of the show cause notice itself.
- 27.** Furthermore, even after the Aadhar Card verification system came into operation, the appellant had admittedly continued to distribute supplies on the basis of the manual method, which had become obsolete, which itself comprises an offence under the 2013 Control Order.
- 28.** Learned AAAG takes the court through the orders of the Appellate Authorities as well as the Licensing Authority and submits that detailed hearing was given to the appellant.
- 29.** Moreover, deposition of the appellant was also recorded in the hearing sheet.
- 30.** Learned AAAG places reliance on the order of the Licensing Authority imposing penalty on the appellant, from which it is shown that the authority adverted to all the points argued before it by the appellant.
- 31.** Thus, it is submitted that in the absence of infraction of any principle of natural justice or any law, the writ court could not have entered into the merits of the adjudication, nor can this court, sitting within the limited scope of an intra-court appeal, interfere with such observations.
- 32.** It is further submitted by learned AAAG that the 'prejudice test' is not met in the present circumstances, since non-service of the

complaint or the report on which the authorities relied did not cause any serious prejudice to the appellant, as the appellant got adequate opportunity of meeting all the allegations against him.

- 33.** Upon hearing learned counsel for the parties and adverting to the materials before us, we find certain serious infractions in the methodology adopted by the respondent-authorities.
- 34.** First, the charges levelled against the appellant in the show cause notice dated May 14, 2024 were somewhat vague and different from those on which the appellant was held guilty.
- 35.** Within the four corners of the show cause notice, for example, we do not find any allegation that the appellant was not maintaining non-drawal or any other sort of register, the mention of which could very well have posted the appellant with the information that he was required to meet such allegation and, if necessary, to bring such registers if available.
- 36.** Even otherwise, the essence of the show cause notice and the following allegations flow from Item-6 of the same, which mentions that no DRC holders from the list of deactivated DRCs came forward for reactivation of the DRC since long “which clearly indicates that those were not in existence”.
- 37.** Proceeding on such basis, in Item-7, it is stated that the distribution of PDS commodities shown against the various categories of “dubious” DRCs, from the date of activation of such

DRCs to the month of deactivation, as per the entitlement scale of the respective distribution months, have been calculated accordingly, multiplying the quantity with the average cost of acquisition for that year.

- 38.** Again, Item-8 mentioned that the distribution shown in the name of deactivated DRC holders was “deviation of PDS commodities” by the appellant, causing huge loss to the Government exchequer.
- 39.** Hence, the very premise of the alleged offences of the appellant was the fact that initially active DRCs were subsequently deactivated.
- 40.** However, the function of issuing DRCs as well as activation and subsequent deactivation of those were entirely on the part of the respondent-authorities and the distributors/fair price shop owners had nothing to do with it.
- 41.** In the present case, the appellant was merely a licence holder for a fair price shop and had no role to play either in the issuance or the activation or subsequent deactivation of the DRCs.
- 42.** The appellant, as such, apparently acted on the DRCs produced before him at a juncture when they were active and as such cannot be blamed therefor.
- 43.** However, there is substance in the argument of the State that the continuance of supply by the appellant, even partially, after

the implementation of the Aadhar Card and electronic verification system might have been a cause of concern.

- 44.** Moreover, there are other aspects of the matter, such as disbursal of supplies to persons without maintaining a non-drawal register which might be construed as an offence under the 2013 Control Order.
- 45.** However, such discussion enters into the realm of conjecture in the absence of any specific allegation in the show cause notice itself on such specific counts of non-maintaining of registers etc.
- 46.** Another important aspect of the matter is that the report itself, which is the soul of the impugned orders of the authorities, and the only basis of calculation of the penalty, was dated February 1, 2024, thus preceding the show cause notice dated May 14, 2024.
- 47.** In the orders of the Licensing Authority and both the Appellate Authorities, not a single sentence has been devoted towards indicating the break-up as to how the calculation of penalties was arrived at.
- 48.** Yet, the ultimate quantum of penalty imposed tallies exactly with the report dated February 1, 2024, thus reflecting pre-mediation and pre-judging on the part of the Licensing Authority at the juncture of issuing the show cause notice itself.
- 49.** The impugned orders of the authorities are also vitiated for non-mention of the basis of break-up, which robbed the appellant of

the opportunity to argue before the authorities as to the veracity of the same.

- 50.** Aldo, from the report itself, we find that certain conjectures and surmises were resorted to for arriving at the calculations, since despite the authorities having admitted that it was not possible with the current data to calculate the family entitlement, the authorities assumed that there are five members per family without any reasonable basis. However, we stop short of entering into the merits of the same, since it will be pre-judging issues which come within the domain of the authorities and not this court, sitting in appeal.
- 51.** Be that as it may, in view of the report being the very premise of the impugned orders, non-supply of the same to the appellant along with the show cause notice also assume significance and definitely prejudiced the appellant seriously.
- 52.** Thus, the 'prejudice test', contrary to what is submitted by the State, is squarely satisfied in the present case due to non-furnishing of such copy.
- 53.** Also, in all fairness, the copy of the complaint which was the very genesis of the show cause notice also had to be given to the appellant for giving him a proper opportunity of hearing.
- 54.** Moreover, the Appellate Authorities did not advert to several grounds taken by the appellant, including the cardinal question of non-supply of the documents referred to above.

- 55.** Thus, in view of there being assumptions and conjectures galore in the decision-making process itself, the said process is vitiated due to violation of principles of natural justice and arbitrariness as well as perversity.
- 56.** Moreover, as discussed above, the show cause notice is vitiated due to non-specificity as to the exact offences which were ultimately the basis of imposition of penalty against the appellant, as well as the deviation between the grounds taken in the show cause notice and the grounds on which the appellant was ultimately held guilty. Such facts denude the entire process, from the show cause notice upwards, of sanctity.
- 57.** These factors were not considered by the learned Single Judge in dismissing the appellant's writ petition.
- 58.** In such view of the matter, we are of the opinion that the judgment impugned before us as well as the orders of the Appellate Authorities and the Licensing Authority and the show cause notice suffer from serious and incurable infirmities.
- 59.** Thus, those cannot withstand the scrutiny of law.
- 60.** Accordingly, MAT 53 of 2026 is allowed on contest, thereby setting aside the impugned judgment dated May 22, 2026 passed in WPA 1113 of 2025 as well as the orders dated March 11, 2025 and September 13, 2024, passed respectively by the Second and First Appellate Authorities, and the order dated July

8, 2024 passed by the Licensing Authority, and quashing the show cause notice dated May 14, 2024.

- 61.** However, it is made clear that nothing in the above observations shall preclude the respondent-authorities from initiating the entire process afresh from the stage of issuance of show cause notice against the appellant by following due process of law and the principles of natural justice.
- 62.** It is expected that in order to avoid further lacuna in the process, the respondents shall also annex with the show cause notice all relevant documents and materials on which the respondents wish to rely on.
- 63.** Consequentially, CAN 1 of 2026 is also disposed of.
- 64.** There will be no order as to costs.
- 65.** Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

I agree.

(Supratim Bhattacharya, J.)