

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Chaitali Chatterjee (Das)

MAT 100 of 2025

With

IA No.: CAN 1 of 2025

With

IA No.: CAN 2 of 2025

A.H.IVF & Infertility Research Centre (P) Ltd.

Vs.

The State of West Bengal & Ors.

For the appellant : Mr. Deborshi Dhar, Advocate

For the State : Mr. Subir Kumar Saha, Ld. AGP
Mr. Momenur Rahman, Advocate

For the Respondent no.8: Mr. Narendra Nath Das, Advocate
Mr. Pragyadip Roy Basunia, Advocate
Mr. Jagesh Chandra Roy, Advocate

Heard & Judgment on: January 5, 2026

DEBANGSU BASAK, J.:-

1. Affidavits filed in Court be taken on record.
2. Appeal is directed against an order dated November 19, 2025 passed in WPA 2069 of 2025.

3. Appeal is at the behest of the writ petitioner.
4. Writ petitioner approached the Writ Court assailing a decision of the authority in cancelling the licence of the writ petitioner granted under the provisions of the West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017.
5. Learned Advocate appearing for the appellant submits that, in the earlier round of litigation, the Division Bench directed the Chief Medical Officer of Health (CMOH) to cause an enquiry and to take a decision. He refers to the order of the Division Bench dated July 30, 2024 passed in MAT 185 of 2023. He submits that, no enquiry was held as directed by the order dated July 30, 2024.
6. In support of the contention that, no enquiry was held, learned Advocate appearing for the appellant refers to a letter issued by the authorities. He refers to the date of the letter. He submits that, the enquiry report is dated a day after the date of the letter and the date fixed for the enquiry. According to him, no actual enquiry took place at the locale.
7. Learned Advocate appearing for the appellant submits that, the order of the Division Bench not being complied with, the decision taken by the authorities as impugned in the writ petition should be set aside.
8. State and the private respondent are represented.
9. We find from the records that, the private respondent lodged a complaint with the authorities under the Act of 2017 which was enquired into.

10. The first decision of the authorities exercising powers under the Act of 2017 was assailed in a writ petition filed by the appellant. First decision was set aside.
11. The Coordinate Bench on appeal, in MAT 185 of 2023, while upholding the order of setting aside the decision of the authorities, issued certain directions.
12. Subsequent to the order dated July 30, 2024 passed in MAT 185 of 2023, the authorities issued a notice dated October 28, 2024 for hearing. Subsequent other notices were also issued. Thereafter, the authorities prepared a report of enquiry dated November 19, 2024.
13. The enquiry report was assailed by way of a writ petition, that is, WPA 2069 of 2025 which was disposed of by the impugned order.
14. Learned Single Judge found that, there is statutory alternative remedy available to the writ petitioner/appellant under the provisions of the Act of 2017.
15. Learned Single Judge, therefore, allowed the writ petitioner/appellant to avail of such statutory alternative remedy.
16. It is trite law, a writ petition is maintainable notwithstanding existence of a statutory alternative remedy, in the event, the writ petitioner is able to establish that, the authority acted without jurisdiction or in breach of principles of natural justice or that, the impugned order is perverse.
17. In the facts and circumstances of the present case, it cannot be said that, the authorities acted without jurisdiction.

18. There is an issue as to breach of principles of natural justice. Such issue, however, is an issue of mixed question of fact and law as emanating from the materials made available on record.
19. Learned Single Judge, therefore, on such issue, thought it prudent that, the statutory alternative remedy available under the Act of 2017 is sufficient for addressing such a problem.
20. Learned Single Judge gave reasons for directing the writ petitioner/appellant to avail of the statutory alternative remedy.
21. We find no perversity in the order impugned calling for an interference as the appeal Court.
22. At this stage, learned Advocate appearing for the appellant submits that, the learned Single Judge directed the appeal to be heard and disposed of within three months.
23. Learned Advocate appearing for the appellant submits that, the time to dispose of the appeal be extended as, the appellant will prefer the appeal in terms of the order impugned.
24. Request of the appellant being reasonable is accepted.
25. Appellate authority under the Act of 2017 will hear and decide the appeal within a period of three months from the date of filing of the appeal.
26. Needless to say that, all points raised by the parties are kept open to be decided by the appellate authority.
27. Our observations are limited to the decision in the appeal. The same will not prejudice any of the parties to the appeal.

28. **MAT 100 of 2025** and **IA No.: CAN 1 of 2025** and **IA No.: CAN 2 of 2025** are **disposed of** without any order as to costs.

(Debangsu Basak, J.)

29. I agree.

(Chaitali Chatterjee (Das), J.)

(AD)