

JUSTICE T.S. SIVAGNANAM  
Appellate Tribunal for Special Intensive Revision in West Bengal.

Notification of Election Commission of India No.39/WB/2026 (SIR)

Dated 20<sup>th</sup> March, 2026

Dated : 5<sup>th</sup> April, 2026

Appearance :

Mr. Firdous Samim, Advocate &

Ms. Gopa Biswas, Advocate

... for the Appellant/Petitioner.

Mr. Arun Prasad, Additional CEO, West Bengal &

Ms. Divya Murugesan, Jt. CEO, West Bengal .....For the Election Commission of India.

The Hon'ble Supreme Court in a Writ petition being W.P. Civil No.399 of 2026 (Motab Shaikh vs. The Election Commission of India & Ors.) filed by Mohtab Sheikh by order dated 2<sup>nd</sup> April, 2026 directed the petitioner to approach the Appellate Tribunal which was constituted pursuant to the orders passed by the Hon'ble Supreme Court dated 1<sup>st</sup> April, 2026 in W.P. (Civil) No.1089 of 2025 (Mostari Banu vs. Election Commission of India & Ors.). In the said order specific direction was issued to the petitioner to approach this Tribunal and the appeal to be entertained and decided by this Tribunal with the assistance of the Election Commission of India by the forenoon of 6<sup>th</sup> April, 2026.

Taking note of the directions, this Tribunal fixed the date hearing of this appeal on 5<sup>th</sup> April, 2026 at 10.30 a.m. Before the Tribunal the officials of Election Commission of India and the learned advocates for the appellant/petitioner were present.



The Appellant is aggrieved by the exclusion of his name from the list of valid voters who would be eligible to participate in the election scheduled in April, 2026. The appellant's further case is that he has been nominated as a candidate by a National party in the Farakka constituency and therefore has pleaded urgency in the matter.

The Tribunal desired to see the reasons given by the Adjudicating Judicial Officer to examine the basis on which the appellant's name was excluded. It appears that for technical reasons that information/reasons could not be placed before the tribunal by the Election Commission of India. In such circumstance, the tribunal proceeded to examine the entire records which according to the appellant were placed before the AERO.

The dispute appears to be on account of the name of the appellant as shown in the 2002 voters' list to that of the name shown in the first list drawn on 16<sup>th</sup> December, 2025. Further, in the list published on 16<sup>th</sup> December, 2025 taking the base date as 1<sup>st</sup> January, 2026 the name of the appellant is shown as MOTAB SHAIKH. Notice was issued by Election Commission of India fixing the date of hearing 29<sup>th</sup> January, 2026 between 9.00 a.m. 12.00 p.m. in the said notice the reason which is stated, which was translated for the understanding of the tribunal, that there is discrepancy in the name of the appellant/name of the father. It is not in dispute that there is no discrepancy in the name of his father. However, in the notice the irrelevant portion was not struck off.

Thus the only issue to be decided in this appeal is whether Motab Shaikh and Shaikh Motaferul are one and the same person.

In the case of W.P. (Civil) No.640 of 2025 (Association for Democratic Reforms & Ors. Vs. Election Commission of India), the Hon'ble Supreme Court by order dated 8<sup>th</sup> September, 2025 clarified the issue pertaining to acceptability and status of Aadhar Card as a supporting document. It was held that as per the statutory status assigned to Aadhar Card under the 2016 Act, though not proof of citizenship, in view of Section 23(4) of the Representation of Peoples Act, 1950, Aadhar Card is one



of the documents enumerated for the purpose of establishing the identity of a person. Accordingly, a direction was issued to the Election Commission of India and its authorities to accept Aadhar Card as a proof of identity for the purpose of inclusion or exclusion in the revised voter list in the case of State of Bihar.

If this decision is applied to the facts of the appellant's case it would squarely support the appellant as the Aadhar Card shows the name of the appellant as Motabh Shaikh. This would be sufficient to accept the case of the appellant. Furthermore, in the passport issued to the appellant on 8<sup>th</sup> November, 2018, the name of the appellant is Motab and surname is Shaikh. The appellant was issued Driving Licence in the year 2001, which shows the name of the appellant as Motab Shaikh son of Ejabul Shaikh. As pointed out earlier there is no discrepancy in the name of the father of the appellant in any record. The appellant also placed before the Tribunal his family tree and submitted that except the appellant all the family members which includes his six sibling their respective spouses and children have been included in the voters list and no discrepancy has been found.

In the voters list drawn pursuant to the SIR conducted in 2002 the name of the appellant was mentioned as Motab Herul. In the said list the name of the appellant's father has been correctly mentioned. On account of this discrepancy the appellant filed an affidavit duly signed before a Notary public dated 3<sup>rd</sup> April, 2002 for the purpose of the Election Commission of India to rectify the name of the appellant. Taking note of such affidavit and in all probabilities after due enquiry the Election Commission of India issued Voter ID card on 15<sup>th</sup> December, 2012 mentioning the name of the appellant as Motab Sk son of Ejabul Sekh. The above records appears to have not been taken note of during the adjudication process. This observation is made as the Tribunal could not peruse the reasons given by the Adjudicating Judicial Officer for excluding the appellant's name.

That apart the appellant has produced the copies of the birth certificate of his four children, first of whom was born in 1993 in which the name of the appellant/father was shown as Motab Shaikh.



For all the above reasons the appellant is entitled to succeed.

The appeal stands allowed with a direction to the Election Commission of India to include the name of the appellant MOTAB SHAIKH in the list of valid voters by publishing his name in the supplementary list by 8.00 p.m. today (5<sup>th</sup> April, 2026)

Sd/-

(T.S. Sivagnanam)

Certified to be true copy

JDM  
5/4/26

(AJAY KUMAR DAS)

Secretary to Hon'ble Chief Justice  
High Court at Calcutta