

OD- 1

IN THE HIGH COURT AT CALCUTTA

[Constitutional Writ Jurisdiction]

ORIGINAL SIDE

W.P.O. No. 276 of 2026

Sobhandeb Chattopadhyay

Vs.

Hon'ble Speaker, West Bengal Legislative Assembly & Ors.

BEFORE :

The Hon'ble JUSTICE KRISHNA RAO

Hearing Concluded On :17.06.2026

Order On : 18.06.2026

Appearance:

Mr. Kalyan Bandopadhyay, Sr. Adv.

Mr. Suman Sengupta, Adv.

Mr. Arik Das, Adv.

Ms. Pramiti Bandopadhyay, Adv.

Mr. Sirsanya Bandopadhyay, Adv.

Mr. Rahul Kumar Singh, Adv.

... for the petitioner.

Mr. Billwadal Bhattacharya Ld. AAG.

Mr. Suryaneel Das, Adv.

Mr. Aditya Mondal, Adv.

... for the respondent nos.1-3.

Mr. Jaydip Kar, Sr. Adv.
Mr. Pijush Biswas, Adv.
Mr. Abhisek Baran Das, Adv.
... for the respondent nos.5-6.

Mr. Ashish Dutta, Adv.
Mr. Arka Kumar Nag, Adv.
Mr. Aashutosh Bhattacharyya, Adv.
Md. Danish Farooqui, Adv.
... for the respondent no.7.

ORDER

1. The petitioner has prayed for an order of injunction restraining the respondent nos. 5 and 6 from functioning as Leader of Opposition and the Chief Whip of All India Trinamool Congress in the 18th West Bengal Legislative Assembly till the final disposal of the writ petition.
2. The petitioner has contested the Assembly Election from Ballygunge Assembly Constituency during the year 2026 in the 18th West Bengal Legislative Assembly Election and was elected on 4th May, 2026. In the West Bengal Legislative Assembly Election held in the year 2026, the Bharatiya Janata Party (hereinafter referred to as “BJP”) secured 207 seats out of the total 294 West Bengal Assembly Constituencies. The All India Trinamool Congress (hereinafter referred to as “AITC”) secured 80 seats out of 294 in the said Assembly Election and become 2nd largest political party in the 18th West Bengal Legislative Assembly.

- 3.** On 6th May, 2026, approximately 70 Members of the Legislature Party of AITC, including the petitioner herein as well as the respondent nos. 5 and 6, assembled at the party headquarters to participate in the meeting which was presided over by Mr. Firhad Hakim who is also one of the elected members of the Assembly Election, 2026 and during the said meeting, the petitioner was nominated as Leader of the Opposition. The names of Smt. Asima Patra and Smt. Nayna Bandyopadhyay, who were also the elected members of the Assembly Election, have been designated as Deputy Leaders of the Opposition and Mr. Firhad Hakim was proposed to be Chief Whip of the All India Trinamool Congress Legislature Party. In pursuance of the decision taken in the meeting on 6th May, 2026, the National General Secretary of the AITC sent a communication dated 9th May, 2026, to the respondent no. 1 for appointment of Leader of the Opposition, Deputy Leader of the Opposition and Chief Whip on behalf of the AITC in the 18th West Bengal Legislative Assembly.
- 4.** On 15th May, 2026 after the election of the Hon'ble Speaker, the Hon'ble Chief Minister and the petitioner as Leader of Opposition, following the practice, procedure and respect to the Hon'ble Speaker escorted the respondent no. 4 to the Chair of the Hon'ble Speaker by holding his hands. During the welcome speech, the respondent no. 4 recognized the petitioner as Leader of the Opposition in the 18th West Bengal Legislative Assembly on 15th May, 2026.

- 5.** Mr. Kalyan Bandopadhyay, Learned Senior Advocate representing the petitioner submits that all of a sudden on 18th May, 2026, the respondent no. 3 requested the National General Secretary of the AITC to furnish the relevant Minutes/ Resolution of the Meeting of the Legislature Party of the AITC with signatures of the members of the AITC, who attended the said meeting for taking further action. He further submits that another meeting of the members of the Legislative Assembly was called on 19th May, 2026 when the Resolution dated 6th May, 2026, was signed by the members in a separate document, the attendance of the members was also recorded. On 20th May, 2026, the National General Secretary of the AITC furnished the relevant excerpts of the Resolution Book and the attendance of all the members of the 18th West Bengal Legislative Assembly, who were present in the meeting on 6th May, 2026. On 23rd May, 2026, the respondent no. 3 informed that the letter dated 20th May, 2026, will be placed before the respondent no. 1 on 25th May, 2026 for his consideration and necessary orders.
- 6.** Mr. Bandopadhyay submits that subsequently the petitioner came to know that the respondent no. 5 and one Mr. Sandipan Saha being the members of the Legislature Party of the AITC have made complaint to the respondent no. 1 on the allegation that many signatures in the Resolution dated 6th May, 2026 were forged. As per the direction of the respondent no. 1, the respondent no. 3 had made a complaint to the police authority

on 27th May, 2026 and on the basis of the said complaint, the police of P.S. Hare Street initiated an FIR No. 98 of 2026 under Section 318(4)/336(2)/336(3)/338/340(2)/61(2) of Bharatiya Nyaya Sanhita, 2023.

- 7.** Mr. Bandopadhyay submits that the respondent no. 5 and Mr. Sandipan Saha were subsequently expelled from the AITC on 1st June, 2026 for anti-party activities and the copy of the expulsion notice was also forwarded to the Office of the respondent no. 1. He submits that on 1st June, 2026, the National General Secretary of the AITC informed the respondent no. 1 about the practices and norms relating to the reorganization of Leader of Opposition and the Chief Whip of the opposition party and requested the respondent no. 1 to recognize the petitioner as the Leader of the Opposition of 18th West Bengal Legislative Assembly.
- 8.** Mr. Bandopadhyay submits that two of the members of the AITC visited the office of the respondent no. 1 to serve the notice dated 1st June, 2026 but the office of the respondent no. 1 refused to accept the same thereafter the said notice was kept on the table of the respondent no. 1 and duly videographed and on 2nd June, 2026, the said letter was sent to the respondent no. 1 by an email.
- 9.** Mr. Bandopadhyay submits that the petitioner came to know that on 3rd June, 2026, a rebel group of MLAs, led by the respondent no. 5, who was

already expelled from the AITC on 1st June, 2026, submitted a representation to the respondent no. 1 with the purported signatures of 59 MLAs and the respondent no. 5 claimed to be the Leader of the Opposition on the strength of said purported Legislature Party of the AITC.

- 10.** Mr. Bandopadhyay submits that on the basis of the claims of the respondent no. 5 and the respondent no. 6, the respondent no. 1 recognized the respondent nos. 5 and 6 as the Leader of Opposition and Chief Whip of the AITC. After the appointment of the respondent no. 5 as the Leader of Opposition, has allowed to open the chamber of the Leader of Opposition and to act as the Leader of Opposition of the 18th West Bengal Legislative Assembly.
- 11.** Mr. Bandopadhyay submits that the AITC is the 2nd largest political party in the 18th West Bengal Legislative Assembly Election and accordingly, the name of the petitioner was proposed to be appointed as the Leader of Opposition but instead of taking into consideration of the request of the AITC, who is the 2nd largest political party of the said Assembly has taken into consideration of the representation of 59 MLAs and appointed the respondent no. 5 as the Leader of Opposition though they are not the political Legislature Party.

12. Mr. Bandopadhyay further submits that the respondent no. 1 has passed an order by appointing the respondent no. 5 as the Leader of Opposition but has not placed the said order in public domain. In support of his case, he has relied upon the judgment in the case of ***Subhash Desai vs. Principal Secretary, Governor of Maharashtra & Ors.*** reported in ***(2024) 2 SCC 719*** and submits that legislators could rely on the political party for the purpose of setting them up for election, that their campaign would be based on the strengths (and weaknesses) of the political party and its promises and policies, that they could appeal to the voters on the basis of their affiliation with the party but that they can later disconnect themselves entirely from that very party and be able to function as a group of MLAs which no longer owes even a hint of allegiance to the political party. This is not the system of governance that is envisaged by the Constitution. He further submits that the entire structure of 10th schedule which is built on political parties would crumble if this requirement is not complied with and it would render the provisions of 10th schedule otiose and have wider ramifications for the democratic fabric of this country.
13. Mr. Billwadal Bhattacharya, Learned AAG, appearing for the respondent nos. 1 to 3 submits that the petitioner has filed the writ petition challenging the order of appointment of the Leader of the Opposition but has not disclosed the said order. He submits that the petitioner in paragraph 14 of the writ petition admitted that the resolution dated 6th May, 2026, was signed by the members on 19th May 2026, thus there was

no resolution on 6th May, 2026. He further submits that the statements made in paragraph 14 and paragraph 17 of the writ petition are contrary to each other. He submits that on 6th May, 2026, if none of the members have signed on the resolution, how it was unanimously decided to elect the petitioner as the Leader of Opposition.

- 14.** Mr. Bhattacharya submits that neither in the letter dated 9th May, 2026 nor in the letter dated 20th May, 2026, the petitioner disclosed the said fact that on 6th May, 2026, resolution was signed on 19th May, 2026 but only in the writ petition, the petitioner has made out the said case. He submits that the respondent no.1 received the notice from the respondent no.5 and one Mr. Sandipan Saha wherein it was informed to the respondent no.1 that they have never given any consent to the petitioner to be elected as the Leader of the Opposition and many of the signatures are in block letters and the said signatures are not the signature of those persons.
- 15.** Mr. Bhattacharya submits that on receipt of the said complaint, signatures appearing in the resolution and the signatures appearing in the Roll of Members elected in the General Election were verified and found that the resolution is fabricated and a manufactured document and accordingly, a complaint was lodged to the police authorities and a case is registered at P.S. Hare Street Police Station being FIR No. 98 of 2026

dated 27th May, 2026, under Section 318(4)/336(2)/336(3)/338/340(2)/61(2) of the BNS, 2023.

- 16.** Mr. Bhattacharya submits that the Vice President of AITC has sent a communication to the respondent no.1 by enclosing the copy of expulsion notice of the respondent no.5 and Mr. Sandipan Saha. Mr. Bhattacharya submits that on 3rd June, 2026, 58 elected Members of the Legislative Assembly set up by the AITC, submitted a request to recognition of their group as the Principal Opposition Party in the 18th West Bengal Assembly and they have decided to select the respondent no. 5 as the Leader of Opposition. He submits that out of 58 members, 56 members were present before the respondent no.1 while submitting their request.
- 17.** Mr. Bhattacharya submits that only the Legislature Party of the AITC, the majority of which has selected the respondent no.5 as their Leader of Opposition and numerical strength which they have asserted fulfils the litmus test, thus the respondent no.1 has appointed the respondent no.5 as Leader of Opposition. He further submits that though the Vice President of the AITC has informed about the expulsion notice of the respondent no.5 and Mr. Sandipan Saha but no notice or information is given to the respondent no.1 for their detachment from the AITC.
- 18.** Mr. Bhattacharya has relied upon the judgment in the case of ***State of M.P. and Others Vs. M.V. Vyavsaaya & Co.*** reported in ***(1997) 1 SCC 156*** and submits that the Power of the High Court under Article 226 of the

Constitution of India is not akin to appellate power. It is a supervisory power and while exercising this power, the Court does not go into the merits of the decision taken by the authorities concern but only ensures that the decision is arrived at in accordance with the procedure prescribed by law and in accordance with the principles of natural justice wherever applicable.

19. Mr. Bhattacharya has further relied upon the judgment in the case of ***Prestige Lights Ltd. Vs. State Bank of India*** reported in **(2007) 8 SCC 449** and submits that if the petitioner does not disclose full facts or suppresses relevant materials or is otherwise guilty of misleading the Court, the Court may dismiss the action without adjudicating the matter.
20. Mr. Bhattacharya has relied upon the judgment in the case of ***Subhash Desai (supra)*** submits that the Speaker has recognized the Whip and the Leader who are duly authorized by the political party with reference to the provisions of the party constitution and enquiry has been conducted and has appointed the respondent no.5 as the Leader of Opposition.
21. Mr. Jaydip Kar, Learned Senior Advocate representing the respondent nos. 5 and 6 submits that from the statements made in paragraphs 14 and 17 of the writ petition, it is admitted case of the petitioner that on 6th May, 2026, none has signed the resolution and the same was signed on 19th May, 2026, thus there was no resolution on 6th May, 2026. He submits that if there is no resolution on 6th May, 2026, question of consideration of

the request for appointment of the Leader of Opposition in terms of the letter dated 9th May, 2026, does not and cannot arise.

- 22.** Mr. Kar submits that as per the request of the respondent no.1, the National General Secretary of the AITC, has submitted attendance sheet pertaining to the meeting of 6th May, 2026 in the said communication also it is not informed that the signatures have been made on 19th May, 2026, though the date mentioned along with the signatures is 6th May, 2026. He submits that the Speaker has taken decision for appointment of Leader of Opposition as per written request made by the 58 members of the Legislature Party of the AITC, out of which 56 members were personally present before the Speaker and the Speaker found majority of which selected the respondent no.5 as Leader of Opposition.
- 23.** Mr. Kar submits that on 9th May, 2026, the National General Secretary of the AITC submitted request for appointment of the Leader of Opposition, Deputy Leaders of Opposition and Chief Whip but no resolution of the meeting was submitted along with the said request. To ascertain the decision of the party, the Speaker requested the AITC party for submission of resolution and enquiry was conducted and found that there are allegations about signatures in the Attendance Register and in the resolution and it is also admitted that the signatures were not done on 6th May, 2026, thus after conducting enquiry the Speaker has appointed the Leader of Opposition.

24. Mr. Kar submits that as per Explanation-II of Section 3 of The Bengal Legislative Assembly (Members' Emoluments) Act, 1937, if any, doubt arises as to which is or was at the material time the party in opposition to the State Government having the greatest numerical strength in the West Bengal Legislative Assembly or as to who is or was at any material time the Leader in the said Assembly of such a party, the question shall be decided for the purpose of the said Act, by the Speaker of the said Assembly, and his decision, certified in writing under his hand, shall be final and conclusive. He submits that in this case also the Speaker has considered the request and after enquiry, came to the conclusion that the 58 majority members of the particular Legislature Party selected the respondent no.5 as Leader of Opposition.
25. Mr. Kar has relied upon the judgment in the case of ***Kailash Nath Singh Yadav Vs. Speaker, Vidhan Sabha, Lucknow and Another*** reported in ***1992 SCC OnLine All 117*** and submits that the Leader of Opposition in a Legislative Assembly:

“23. The leader or opposition in a Parliament any functionary inextricably connected with the business of the House and its functioning. According recognition to a member of the House as Leader of Opposition is a function which relates to the conduct of business of the House. Whatever is done by the Speaker who is an Officer of the Assembly is done by him for carrying on the business of the House as understood in the wider sene, except in regard to those functions which he has to perform under the Constitution, in his own right as Speaker or as a statutory authority under

any law for the time being in force. It has already been noticed that the statutory recognition given to the Leader of Opposition has not made any substantial changes as to the manner in which recognition may be given to him by the Speaker. Thus, when the Speaker accords recognition to a member of the House as Leader of Opposition, he exercises power with respect to conduct of business of the House. That being so, he shall not be subject to the jurisdiction of any court in respect of the exercise by him of that power in view of the mandatory provisions of clause (2) of Art. 212. If a member of the House has any grievance against the action of the Speaker in exercise of the powers vested, in him, it is open to such member to ventilate his grievance and seek redress in some other appropriate forum according to law. In view of the aforesaid discussion, we have come to the conclusion that the petitioner has failed to make out a case for our interference in the exercise of jurisdiction under Art. 226 of the Constitution.”

- 26.** Mr. Kar has further relied upon the judgment in the case of ***Databhau Vs. State of Maharashtra and Others*** reported in **2007 SCC OnLine Bom 99** and submits that there is nothing wrong in recognizing a Corporator belonging to a party having next higher numerical strength as a Leader of Opposition in the circumstances where the party having greatest numerical strength in the house.
- 27.** By a letter dated 9th May, 2026, the National General Secretary requested the respondent no.1 that the members of the All India Trinamool Congress have unanimously resolved to appoint the petitioner as Leader of Opposition. Admittedly in the communication dated 9th May, 2026, no resolution was forwarded to establish that unanimous decision was taken

by the party for appointment of Leader of Opposition. The office of the Speaker by a letter dated 18th May, 2026, requested the National General Secretary of the AITC to provide relevant Minutes/ Resolution of the Meeting of the Legislature Party of the AITC along with the signatures of the members present in the said meeting for taking further action in terms of the letter dated 9th May, 2026. On 20th May, 2026, the National General Secretary of the AITC forwarded the Resolution Book with attendance sheet containing the signatures of the members present on 6th May, 2026. On receipt of the said documents, by a letter dated 23rd May, 2026, the office of the Speaker informed to the National General Secretary of the AITC that the matter will be placed before the Speaker on 25th May, 2026.

- 28.** On 27th May, 2026, the respondent no.5 and one Mr. Sandipan Saha informed the Speaker that the resolution dated 6th May, 2026, does not portray the true picture of the real state of affairs and they have not given any consent to the petitioner to be elected as Leader of Opposition and they were only asked to put their signatures in the Minutes Book. It is further alleged in the said communication many of the signatures are in block letters and the said signatures are not the signatures of those persons. On receipt of the said complaint, the Office of the Speaker verified the signatures appearing in the Resolution dated 6th May, 2026, and the Roll of Members elected in the General Election of the 18th Legislative Assembly of the State of West Bengal and reported the matter

to the police authority on 27th May, 2026 for taking appropriate action. The police has registered a case and investigation is pending.

- 29.** On 1st June, 2026, the Vice President of the AITC informed the Speaker that the party has expelled the respondent no.5 and Mr. Sandipan Saha from the primary membership of the party with immediate effect. On 3rd June, 2026, 58 members of Legislative Assembly of the AITC out of 80 members have jointly informed the Speaker that they have got the majority being the MLAs of the AITC and unanimously decided to select the respondent no. 5 as Leader of Opposition in the 18th West Bengal Legislative Assembly. It is also the case of the respondent no.1 that out of 58 members who have signed the joint request, 56 members appeared personally before the Speaker and considering the same, the Speaker has passed an order by appointing the Respondent no. 5 as Leader of Opposition.
- 30.** The contention of Mr. Bandopadhyay is that the request submitted by 58 members are not the political party and the Speaker ought not to accept the same by appointing the respondent no. 5 as Leader of Opposition while keeping the request of the political party dated 9th May, 2026, pending. He submits that at per Clause 1(c) of the Tenth Schedule of the Constitution of India, the Original Political Party is in relation to a member of a House, means the Political party to which he belongs for the purposes of Sub-paragraph (1) of Paragraph 2.

31. Mr. Bandopadhyay has further relied upon the judgment in the case of **Subhash Desai (supra)** wherein the Hon'ble Supreme Court held that:

“114.1. Para 2(1)(b) of the Tenth Schedule provides that the direction to vote or abstain from voting must be issued by the political party or by “any person or authority authorised by it”, with the word “it” referring to the political party. The provision states that prior permission must have been received from the political party if the member wants to vote contrary to the direction issued, and the political party must condone such action within fifteen days. The provisions of the Tenth Schedule stipulate in unequivocal terms that the direction must come from the political party and not the legislature party. The distinction between political party and legislature party is made in the definition clause in Para 1. There are no two ways about it. The Tenth Schedule would become unworkable if the term “political party” is read as the “legislature party”. A clear demarcation is made between political party and legislature party for the purpose of a merger under Para 4, which stipulates that two-thirds of the members of the legislature party must have agreed to a merger of the original political party before such a merger can be deemed to have taken place. To read the term “political party” as “legislature party” would be contrary to the plain language of the Tenth Schedule;

114.2. It is an accepted position that the Whip communicates the directions of the party to its members. The phrase “Whip” is neither used in the Tenth Schedule nor in the 1986 Rules. The phrase finds a mention in the 1956 Act as one of the offices that would not be covered within the meaning of “office of profit”. The Explanation to Clause 23 of Schedule I to the 1956 Act states that the Chief Whip is declared by the party forming the Government. The reference to “party” in the explanation clause means political party and not legislature party because the term “party” is used to depict political party in common parlance.”

- 32.** There are altogether 80 elected Legislative Assembly Members in the 18th Legislative Assembly of the West Bengal. The National General Secretary of the AITC requested for appointment of the petitioner as Leader of Opposition as per the Resolution dated 6th May, 2026. When the resolution considered by the Speaker an objection was received with regard to the signatures appearing in the said resolution and after enquiry the matter is referred to the police for investigation. The AITC expelled the respondent no.5 and one Mr. Sandipan Saha as primary members of the party. The respondent no.5 and Mr. Sandipan Saha informed the Speaker about their alleged illegal expulsion from the party as no notice was issued to them before their expulsion nor any opportunity of hearing was provided to them.
- 33.** It is the specific case of the respondent nos. 1 and 4 to 6 that the 58 members who have submitted their request for appointment of the respondent no. 5 as Leader of Opposition, are the members of the AITC and have shown the greatest numerical strength of the said party, thus there is no illegality of appointment of the respondent no. 5 as Leader of Opposition.
- 34.** Explanation-I and Explanation-II of the Section 3 of The Bengal Legislative Assembly (Members' Emolument) Act, 1937, reads as follows:

“Explanation I.- “Leader of the Opposition” means that member of the West Bengal Legislative Assembly who is for the time being the Leader in the State Assembly of the party in opposition to the

State Government having the greatest numerical strength in the said Assembly;

Explanation II.- *If any doubt arises as to which is or was at the material time the party in opposition to the State Government having the greatest numerical strength in the West Bengal Legislative Assembly, or as to who is or was at any material time the Leader in the said Assembly of such a party, the question shall be decided for the purposes of this Act, by the Speaker of the said Assembly, and his decision, certified in writing under his hand, shall be final and conclusive.”*

- 35.** As per the said provision, the party in opposition having the greatest numerical strength at the material time, such party shall decide the Leader of Opposition. In the case in hand, out of 80 elected members of the Legislative Assembly set up by AITC, 58 members secured greatest numerical strength by submitting their joint request and appearing before the Speaker in person. The Resolution submitted by the National General Secretary of the AITC is dated 20th May, 2026, is in dispute.
- 36.** From the order dated 3rd June, 2026, wherein the Speaker has appointed the respondent no. 5 as Leader of Opposition reveals that the Speaker has conducted enquiry and found that the resolution submitted by the National General Secretary of the AITC, there is dispute with regard to the signatures appearing in the said resolution and the notice of expulsion of the respondent no.5 and Mr. Sandipan Saha is also under challenge. During hearing of the case, the respondent no.5 has produced the copy of the order passed by the Learned Court of Civil Judge (Senior Division), 5th

Court, Alipore, passed in Title Suit No. 846 of 2026 dated 15th June, 2026 wherein the Learned Court has passed an order of stay from giving any effect to the notice of expulsion till 30th June, 2026.

- 37.** Considering the above, this Court did not find any *prima facie* case and balance of convenience and inconvenience in favour of the petitioner for grant of interim order as prayed for by the petitioner, accordingly, interim order is refused.
- 38.** The respondents are directed to file affidavit-in-opposition within a period of three weeks, reply, if any, within two weeks thereafter. List the matter on 28th July, 2026.

Urgent Xerox certified photocopies of this order, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)

p.das/-