

Form No.J(2)

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present :

The Hon'ble Justice Raja Basu Chowdhury

WPA 11873 of 2026

Rabishankar Das

versus

The State of West Bengal & Ors.

with

WPA 12102 of 2026

Nabendu Mahali

versus

The State of West Bengal & Ors.

For the petitioner : Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
(in WPA 12102/26) Mr. Pawan Kr. Gupta
Mr. Santanu Sett

For the petitioner : Mr. Mrityunjoy Chatterjee,
(in WPA 11873/26) Ms. Suchismita Chakraborty
Mr. Debarnab Adhikary

For the State : Mr. D N Roy, Id GP
(in WPA 11873/26) Mr. Sovan Mukherjee
Ms. Aishwarya Rajashree
Mr. Guddu Singh
Mr. Arghya Chatterjee

For the State : Mr. Debasis Basu, Id AGP
(in WPA 12012/26) Ms. Jayita Dhar Chakraborty

Heard on : 11.06.2026, 18.06.2026.

Judgment on : 23.06.2026

Raja Basu Chowdhury, J (Oral):

1. The aforesaid two writ petitions has been filed with a common cause, *inter alia*, challenging the show cause notice dated 19th

November, 2025 and the order dated 16th December, 2025 whereby the Governor has been pleased to declare that the Board of Councillors of the Purulia Municipality is incompetent to exercise statutory functions imposed on it in exercise of powers conferred under Sub-Section (2) of Section 431 of the West Bengal Municipal Act, 1993 (hereinafter referred to as the “said Act”) and has consequentially dissolved the Board of Councillors. The petitioner also seeks to challenge the subsequent order dated 16th December, 2025 issued by the Governor in exercise of powers under Section 431(3) of the said Act whereby the Governor has been pleased to appoint the sub Divisional Officer, Purulia Sadar as Administrator with immediate effect for a period not exceeding 6 months or until a newly elected Board of Councillors takes over charge, whichever is earlier. Accordingly, both the writ petitions are taken up together for consideration.

2. The petitioners in both the writ petitions claim to be elected councillor of Purulia Municipality who had been elected pursuant to the elections held in the year 2022.
3. According to the petitioners, all on a sudden a show-cause was issued on 19th November, 2025, by invoking the powers under Section 431(1) of the said Act. Though a response was filed dealing with the points noted in the show-cause, the order dated 16th December, 2025 was passed thereby dissolving the Board of

Councillors, and by an order of even date an administrator was also appointed to take charge of the affairs of the municipality.

4. Mr. Bhattacharya, learned senior advocate appearing in support of the petitions has drawn the attention of this Court to the provisions of Section 430 and 431 of the said Act and would submit that the aforesaid exercise of powers by the State is not in accordance with the provisions of the said Act and the Rules framed thereunder.
5. By placing before this Court, Section 430 of the said Act, he has submitted that the State can exercise certain powers, in the event, the State is of the view that the Board of Councillors had made default in performance of duties and in such event, it is the duty of the State to offer opportunity to the Board to remedy the breach by fixing a period for due performance of such duty by the Board. In the instant case, no such opportunity was provided.
6. By drawing the attention of this Court to the show-cause notice dated 19th November, 2025, it is submitted that the Government issued the show-cause notice based on a mass petition dated 3rd November, 2025. According to Mr. Bhattacharya, though it was incumbent upon the State Government to disclose the mass petition dated 3rd November, 2025 based on which the above show-cause notice was issued, the said document was not disclosed in the show-cause. This apart by placing before this Court the provisions of Section 431(1) of the said Act, it is submitted that the State Government did not, in the instant case, form an opinion for

initiating proceeding under Section 431(1) of the said Act, and in absence of formation of such opinion, no proceedings under Section 431(1) of the said Act could have been initiated.

7. It is submitted that though, the Board had responded to the above show-cause by a notice in writing dated 26th November, 2025, the response given by the Board was not adhered to, and without considering the same the order impugned dated 16th December, 2025 was passed.
8. By placing the above order, it is submitted that though an enquiry report received from the District Magistrate, Purulia dated 9th December, 2025 was considered by the State while passing the order impugned, such enquiry report was not disclosed to the petitioner. The aforesaid would constitute violation of the principles of natural justice, apart from the statutory violations as indicated hereinabove.
9. It is submitted that the order dated 16th December, 2025 dissolving the Board cannot be sustained. The subsequent order dated 16th December, 2025 appointing the administrator is conditional upon the dissolution of the Board. Since the prior order cannot be sustained, the subsequent order also cannot be sustained. He submits that in identical set of facts this Court has already intervened and in support has placed reliance the judgment delivered in the case of ***Maisura Begam vs. The State of West Bengal & Ors.*** having neutral citation ***2026:CHC AS:101.***

10. Learned Government Pleader and senior advocate appearing for the State has however, drawn attention of this Court to the provisions of Sections 430 and 431 of the said Act and submits that the consideration for exercise of power under the two sections are different. According to him, while in case of Section 431 if, the State finds that there has been default on the part of the Board of Councillors in performing any duty including duty in relation to the municipality fund, appropriate action as contemplated in Sub-section (2) of Section 430 of the said Act can be taken. However, if the State Government is of the opinion that the Board of Councillors has shown gross neglect in performance of duties, in such case, the Sub-Sections of section 431 of the said Act are applicable. In the instant case, he submits that there has been gross neglect of duty. He further submits that the formation of opinion by the State Government was on the basis of the report filed by the District Magistrate. Since in the instant case, the State Government had formed an opinion on the basis of the mass petition and the subsequent report filed by the District Magistrate, proceedings had been initiated under Section 431 of the said Act. According to him, there is no requirement in law for disclosure of the basis of formation of opinion by the State to the Board of Councillors.

11. There is no irregularity in action taken by the State. The Board of Councillors was duly put on notice of the proposed action. The

Board of Councillors did respond to the same upon being aware of what was forthcoming and as such no interference is called for.

12. Having heard the learned advocates appearing for the respective parties, I find that admittedly, it is not in dispute that the two petitioners in the two writ petitions had been elected as Councillors under Purulia Municipality in the District of Purulia pursuant to the elections held in the year 2022. It is also not disputed that the Board of Councillors was in place prior to passing of the order dated 16th December, 2025. I find from the records that based on the mass petition dated 3rd November, 2025, which is yet to see the light of the day, a show-cause notice dated 19th November, 2025 was issued under the provisions of Section 431 of the said Act. In this context, it may be noted that Mr. Bhattacharyya, learned senior advocate appearing for the petitioner has attacked the aforesaid notice on the ground that the same has not been issued in consonance with the provisions of Section 431 of the said Act. To morefully appreciate the above, the relevant provisions of Section 431 of the said Act are extracted herein below:

“431. Power of the State Government to intervene in case of gross neglect or serious irregularity.—(1) If, in the opinion of the State Government, the Board of Councillors has shown gross neglect in the performance of the duties imposed upon it by or under this Act or any other law for the time being in force, or has committed serious irregularities in the performance of such duties, the State Government may by order direct the Board of

Councillors to show cause within the period specified in the order why it shall not be dissolved on grounds of charges mentioned in this order.

(2) If the Board of Councillors fails to answer the charges within the period specified in the order or within such further time as may be allowed by the State Government, or if the answers do not convince the State Government, or where more than two-thirds of the total number of Councillors holding office for the time being have, for any reason, resigned, the State Government may dissolve the Board of Councillors by an order published in the Official Gazatta with effect from the date of the order.

(3) When the order of dissolution has been passed, all the powers and functions vested upon the municipal authorities under this Act or any other law for the time being in force, shall be exercised by such person or persons to be designated as Administrator or Board of Administrators as the State Government may appoint for the purpose.

(4) A general election to the Municipality shall be held within six months of its dissolution for the constitution of a new Board of Councillors immediately thereafter:

Provided that the new Board of Councillors shall continue only for the remainder of the period of which the dissolved Municipality would have continued had it not been so dissolved:

Provided further that when the period for which the Board of Councillors would have continued is less than six months, it shall not be necessary to hold any elections for constituting a new Board of Councillors for such period.

[(5) Omitted.]

[(6) Omitted.]

(7) If any question arises as to what constitutes a gross neglect or a serious irregularity under this section, the opinion of the State Government as recorded in writing in the order, under this section shall be final and conclusive and the same shall not be questioned in any court of law.”

13. As would appear from the above and ordinarily, the power under Section 430 of the said Act is exercised in case of default committed by the Board of Councillors, however, the power under Section 431 of the said Act is more drastic. In the instant case, since, the State has initiated the proceedings directly under Section 431 of the said Act, this Court has examined the said provision in detail.

14. As is apparent from a plain reading of the provision, such a provision can be invoked only when the State Government is of the opinion that the Board of Councillors has shown gross neglect in the performance of its duties as imposed upon it by the statute. However, to invoke such provision, the State Government has to, at the first instance, form a *prima facie* opinion that the Board of Councillors has shown gross neglect in performance of duties. It is the formation of such opinion of the State Government which is a *sine qua non* for initiation of proceeding by issuing a show-cause under Section 431(1) of the said Act.

15. From the submissions made by the learned Government Pleader, the formation of the opinion was based on mass complaint as regards the disruption of essential municipal services and allegations on apathetic behavior of the Chairman and other officers

of the municipality, as also the subsequent report prepared by the District Magistrate dated 9th December 2025. From the aforesaid as also from perusal of the show cause notice, there is no way that the show cause notice could identify the formation of any prima facie opinion.

16. It is also apparent from the submissions of the learned Government Pleader that the opinion was found by the State Government by relying on the report of the District Magistrate dated 9th December, 2025 and as such it cannot be said that the State Government had formed a prima facie opinion under Section 431(1) of the said Act for issuance of the show cause dated 19th November 2025, as the report of the District Magistrate was yet to see the light of the day. In fact, the State Government had initiated the enquiry through the District Magistrate vide a notice dated 19th November, 2025 and as such the formation of opinion based on the aforesaid report was not possible on the date when the show-cause notice dated 19th November, 2025 was issued.

17. From a perusal of the show-cause notice it transpires that the stoppage of cleansing of municipal roads, irregular clearing of drainage, irregular and inadequate water supply, accumulation of garbage due to lack of proper waste disposal by the municipal authority, waste generated due to irregular clearing of drainage causing different health hazards including disease like malaria dengue etc. and apathetic behavior of the Chairman and other office

bearers of the municipality have been made grounds for issuing the show-cause notice. I find that the aforesaid show-cause notice was duly responded to by the municipal authorities.

18. Mr. Bhattacharya, learned senior advocate for the petitioner argues that the foundation of the show cause notice being mass petition having not been disclosed, the same in effect vitiate the entire proceeding.

19. A perusal of the aforesaid order impugned would, however, demonstrate that the Government while considering the show-cause notice and the response thereto, had also relied on an enquiry report received from the District Magistrate, Purulia dated 9th December, 2025 which report was also incidentally, not supplied to the petitioners in both the writ petitions.

20. Based on the aforesaid report received from the District Magistrate, Purulia, the Governor had recorded in the order impugned in the following terms:

“AND WHEREAS on the basis of the findings mentioned in above report, the District Magistrate, Purulia has concluded that the Chairman and Board of Councillors Purulia Municipality have shown negligence in performing their duties resulting in disruption of essential municipal services which is detrimental to public interest”

21. Thus, it is clear from the above that the aforesaid report also formed the basis for taking a decision for dissolving the Board of Councillors. The decision was thus, based on materials which were

neither disclosed, nor supplied to the Board of Councillors. In absence of disclosure of the aforesaid material, the Board of Councillors did not get an appropriate opportunity to respond and to defend the case. When the report of the District Magistrate dated 9th December, 2025 was considered by the State, it was the duty of the State to supply the copy of the report, for the Board of Councillors to appropriately respond to the same, especially when the decision to dissolve the Board of Councillors was based on the above report. Admittedly, in this case, the same had not been done. In identical set of facts in the case of Maisura Begam (supra) this Court had intervened. Having regard thereto, I am of the view that in the instant case, there has been violation of principles of natural justice. The order impugned thus, stands vitiated on the ground of violation of the principles of natural justice.

22. This apart, I find that the learned Government Pleader insists that only upon receipt of the report of the District Magistrate, Purulia the State Government was in a position to form the opinion. If such is the case, then the show cause issued by the State under Section 431(1) of the said Act, in my view, would be a non starter inasmuch as the date when the show cause notice was issued, there is no question of formation of opinion as the report of the District Magistrate, Purulia was yet to see the light of the day.
23. Having regard thereto, the order dated 16th December, 2025 passed by the Governor in exercise of power conferred under

Section 431(2) of the said Act, dissolving the Board of Councillors cannot be sustained and the same is accordingly set aside.

24. Consequentially, the order dated 16th December, 2025 appointing Sub-Divisional Officer, Purulia Sadaar as Administrator with immediate effect, and the subsequent extension thereto by order dated 12th June 2026 which has been brought on record by the supplementary affidavit, also cannot be sustained and the same are also accordingly set aside. All consequences shall follow.
25. After this order is dictated although, the learned Government Pleader insists that appropriate liberty may be given to the State to proceed and the above order should not stand as a bar, I am of the view that no liberty is necessary for the State to proceed.
26. With the above observations and directions, both the writ petitions stand disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)

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A.R. (Court)