

WPO/101/2025

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SHRI RAJENDER KUMAR DUDEJA.

-VERSUS-

HIGH COURT AT CALCUTTA AND ANR.

BEFORE:

The Hon'ble JUSTICE REETOBROTO KUMAR MITRA

Date : 11th September, 2026.

Appearance:

*Mr. Rajender Kr. Dudeja (in person).
... the petitioner.*

*Mr. Joydip Kar, Sr. Adv..
Mr. Kallol Bose, Adv..
...for the respondent.*

The Court: The petitioner is aggrieved with certain disciplinary proceedings and enquiry report against him. Challenging the same he has filed the instant writ petition.

Though the matter has been heard by a co-ordinate Bench of this Court, it is this Court at present which has the determination to take up this matter.

While directions were being passed for exchange of affidavits by the parties, the petitioner had indicated that this writ petition should not be taken up by a Single Bench of this Court and ought to be taken up by a Bench of two or more Judges. This, after the petitioner had made elaborate submissions, according to him, before co-ordinate Bench of this Court on merits. This issue had evidently not been raised by the petitioner before the co-ordinate Bench.

The petitioner alleges that under Chapter V Rule 2 of the Original Side Rules of this Court, a Single Judge can come to a finding that a matter can be heard more advantageously by a Bench of two or more Judges and can refer the same to the Hon'ble Chief Justice for appropriate orders for constitution of Bench for such purpose.

The petitioner has raised certain issues to buttress his point that the matter can be more advantageously heard by a bench of two or more Judges. These issues are as under:

- a. The enquiry report has been filed by a sitting Judge of this Hon'ble Court and it may be difficult for a Single Judge to deliberate on such report filed by another Single Judge;
- b. Judicial propriety and discipline demand that this matter should be placed before a Larger Bench;
- c. The matter had been heard elaborately as will appear from the order dated 27th April, 2026;
- d. The matter involves "serious questions of law" which ought to be decided by a Bench of two or more Judges;
- e. He has also placed reliance on a decision of the Hon'ble Supreme Court of India reported in 2024 LiveLaw (SC) 12 (Mary Pushpam vs. Telvi Curusumary & Ors.)

Mr. Kar, learned senior Advocate appearing for the High Court administration submits on the following issues:

- i.) The provisions of Chapter V Rule 2 of the Original Side Rules are applicable only in cases where a situation has arisen which

would warrant a Bench of two or more Judges to decide the issue. This could emanate from a situation where there are two conflicting Division Bench judgments on the same issue or some other judicial compulsion. It is not as if Chapter V Rule 2 of the Original Side Rules of this Court is a mandate that every matter should be referred to a Larger Bench.

- ii.) The report of the learned Single Judge has been filed in his administrative capacity. This report is not even a quasi-judicial action and there is absolutely no ground to hold that the same should be treated as a judicial action wherefrom an appeal would lie.
- iii.) This is not a Clause 15 appeal as mandated under Clause 15 of the Letters Patent, 1865. This is merely an administrative action which has been taken and cannot curtail the powers of a Court exercising jurisdiction under Article 226 of the Constitution of India.
- iv.) In so far as the order dated 27th April, 2026 is concerned, the submissions made by the petitioner were at an ad interim stage, without any affidavits being called for. This is a matter which requires affidavits for final disposal. The matter had never been finally heard before the other co-ordinate Bench.
- v.) The question of judicial propriety or judicial discipline as espoused by the Hon'ble Supreme Court of India in several judgments including the one referred by the petitioner in Mary Pushpam

(*supra*) is a completely different issue. That judgment was in reference to precedence and the binding effect of precedence in judicial decisions.

I have heard the petitioner (in person) and Mr. Kar, learned senior counsel appearing with Mr. Kallol Bose, learned advocate appearing for the High Court administration.

The issue as raised by the petitioner that the matter should be heard by a Bench of at least two or more Judges emanates from Chapter V Rule 2 of the Original Side Rules framed by this Hon'ble Court. This is not a mandate. This is merely a guideline for a directory purpose. The qualifications provided in the rule itself are clear that reference can be made by a learned Single Judge only upon coming to a finding that the matter can be heard more advantageously by a Bench of two or more Judges. The only ground which has been raised by the petitioner to warrant a finding of more advantageous hearing before a Larger Bench is that an enquiry report is under challenge in this petition, which has been authored by a learned Single Judge of this Court. However, it is not as if this Court is sitting in appeal over a judicial order passed by another Single Judge. This is impermissible in law and would result in judicial indiscipline. This enquiry report has been made by a learned Single Judge in his administrative capacity. This is not a judicial order. Had it been a judicial order, an appeal therefrom would have been the mandate. There is nothing in the Rules either on the Original Side or in the service jurisprudence that could warrant such an appeal from the order passed by an enquiry authority. The enquiry report is merely the communication of a finding by an

enquiry authority and not a judicial pronouncement of any Judge, discharging judicial function.

Surprisingly this issue had never been raised by the petitioner before the earlier co-ordinate Bench, before whom the petitioner alleges he had concluded his submission.

The decision in Mary Pushpam (supra) is an accepted proposition with which I respectfully agree. However, the ratio thereof is of no assistance to the petitioner in this case as the same refers to a judicial order and precedence. In the present case, there is no such judicial order or decision which has been challenged in this writ petition. It is merely the enquiry report which has been filed against the petitioner.

In view of the afore-stated finding, I do not find any ground or reason to hold that this matter can be heard more advantageously before a Bench of two or more Judges as stipulated under Chapter V Rule 2 of the Original Side Rules.

In so far as the issue of serious question of law is concerned, the petitioner has not made any submission that he does not have the confidence on this Court to deal with such serious question of law. Hence, the issue of this Bench not being in a position to hear and determine and, indeed, decide a serious question of law does not arise.

In view of the afore-stated, I hold that the instant petition should be heard by a learned Single Judge of this Court.

Let affidavit-in-opposition be filed by October 15, 2026; reply thereto, if any, be filed by November 13, 2026, 2026.

Let this matter be listed on November 20, 2026 under the heading 'For Hearing'.

Urgent certified photostat copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(Reetobroto Kumar Mitra, J.)

A/s.