

03. 15.10.2026
(D/L) CT. NO. 05
(SUVENDU-A.R.CT)
(ARPAN-A.R.CT.)

In The High Court at Calcutta
CONSTITUTIONAL WRIT JURISDICTION
(Appellate Side)

W.P.A. 29837 OF 2026

**COMMUNIST PARTY OF INDIA (MARXIST) AND
ANOTHER
VS.
THE STATE OF WEST BENGAL AND OTHERS**

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Mr. Bikash Ranjan Bhattacharyya, Sr. Adv.
Mr. Samim Ahmed, Adv.
Mr. Siddhartha Sankar Mondal, Adv.
Mr. Tapas Maity, Adv.
Mr. Subhasish Chakraborty, Adv.
Mr. Rajit Lal Maitra, Adv.
Ms. Ambiya Khatun, Adv.
Ms. Saloni Bhattacharyya, Adv.
Mr. Arka Ranjan Bhattacharyya, Adv.
Mr. Asif Iqbal Baidya, Adv.
Ms. Gulsanwara Parvin, Adv.
Mr. Enamul Islam, Adv.
Ms. Reshma Khatun, Adv.
Mr. Nasirul Haque, Adv.
Ms. Shreya Das, Adv.
Mr. Jaya Iram, Adv.
Ms. Sabnam Mustari, Adv.

... For Petitioners

Mr. Surojit Nath Mitra, AG
Mr. Billwadal Bhattacharyya, AAG
Mr. Anindya Basu, Adv.
Mr. Pratip Mukherjee, Adv.
Mr. Bikash Kumar Srivastava, Adv.

... For State

1. Matter is taken up for consideration in presence of Mr. Bikash Ranjan Bhattacharyya, learned Senior Advocate representing petitioners and Mr. Surojit Nath Mitra, learned Advocate General representing State respondents.
2. On behalf of petitioners and State respondents order passed by the Hon'ble Division Bench on 15th October,

2026 on an intra-court appeal being *MAT 1868 of 2026 (The Inspector In Charge of Bongaon Police Station versus Communist Party of India (Marxist) & Ors.)* is placed before this Court and it is jointly submitted that liberty is granted by the Hon'ble Division Bench while disposing of aforesaid appeal to this Court to deal with the issue as to whether writ petition filed by the petitioners is within the Roster assignment/determination or not.

3. Taking note of the order passed by the Hon'ble Division Bench today, 15th October, 2026 and issue raised on behalf of the State respondents that present writ petition may be classified under Group-I (Land), this Court is required to address same at the threshold.
4. On behalf of petitioners attention of this Court is drawn to the prayers couched in writ petition wherein according to petitioners, specific directions are prayed for in the form of mandamus upon the concerned police authorities to provide protection and maintenance of peace and public order considering alleged incident, which took place on 6th October, 2026, that would permit the petitioners to erect temporary bamboo structure thereby housing a book stall during Durga Puja. In support of such contention, reliance is placed on Appendix IV of the Rules of the High Court at Calcutta relating to applications under Article 226 of the Constitution. According to petitioners, Group-I and its sub-heads from (a) to (l) prescribe issues chiefly relatable to land disputes and it is submitted considering prayers couched in writ petition that writ petition ought not to be considered as Group- I matter. Representation dated 1st October, 2026 made on behalf of petitioner no.1 organization addressed to the Sub-

Divisional Officer, Bongaon Sub-Division, North 24 Parganas does not support classification of this writ petition as Group-I (Land) matter.

5. Mr. Surojit Nath Mitra, learned Advocate General duly assisted by Mr. Billwadal Bhattacharyya, learned Additional Advocate General has strenuously argued and opposed the stand expressed on behalf of petitioners regarding classification of writ petition as Group-IX (Police inaction) matter. It is submitted that in terms of Appendix IV of the Rules of the High Court at Calcutta relating to applications under Article 226 of the Constitution, this writ petition may be classified as Group-I (Land) matter of the classification list of different types of writ proceedings. It is contended that sub-heads from (a) to (k) under Group-I of Schedule 'B' of Appendix IV may not apply while classifying this writ petition but it comes under sub-head "Miscellaneous" as provided under Group- I (l).
6. Submission made on behalf of State respondents that classification of this writ petition as Group-I (Land) matter is chiefly based on representation dated 1st October, 2026 made on behalf of petitioner no.1 organization addressed to concerned Sub-Divisional Officer, which is at page 23 of the writ petition. It is contended that once prayer was made for granting permission to run a book stall before the concerned Sub-Divisional Officer and land on which petitioner no.1 organization is proposing to erect book stall is owned by Public Works Department (for short "PWD"), petitioners are required to approach Bench having determination as per Roster to hear Group-I (Land) matter.

7. In order to find out issue involved in this writ petition, Court has perused prayers couched therein and relevant prayers as set out below:

“(a) Grant leave to move the writ petition without serving upon the respondents.

(b) Issue a Writ of Mandamus commanding the respondent authorities to take all necessary and consequential steps, including making adequate arrangements for protection and maintenance of peace and public order, to ensure the peaceful and lawful establishment and conduct of the book stall of petitioner no.1 at the place in front of its party office beside Bongaon Jessore Road, Bongaon, North 24 Parganas, during the period from 16.10.2026 to 21.10.2026, without any unlawful obstruction, intimidation, threat, assault or interference by any person or group.

(c) Issue a Writ of Mandamus commanding the respondent police authorities to provide adequate and effective police protection to petitioner no.1, its office-bearers, members and workers for peacefully erecting the temporary poles and establishing and operating the aforesaid book stall during the aforesaid period.

(d) Issue a Writ of Mandamus commanding the respondent police authorities to take appropriate action in accordance with law in respect of the incident dated 06.10.2026, including the forcible obstruction, physical assault, threats and continued construction at the site despite police intervention and direction.”

8. *Vide* aforesaid prayers, it is found specific directions are sought for upon the concerned police authorities to maintain peace and public order and to provide protection to the petitioners considering alleged incident of 6th October, 2026, which will permit the petitioner no.1 organization to run the book stall

during puja days. Accepting submissions made on behalf of State respondents if present writ petition is classified as Group-I (Land) matter as delineated under Schedule 'B' of Appendix IV of the Rules of the High Court at Calcutta relating to applications under Article 226 of the Constitution, in that event, issue in the writ petition has to be relatable to any of the sub-heads under Group-I, which are from (a) to (l). For better understanding of the issue, Court finds it apt to quote relevant part of Schedule 'B' of Appendix IV of the Rules of the High Court at Calcutta relating to applications under Article 226 of the Constitution below:

“SCHEDULE ‘B’

Classification list of different types of writ proceedings

[Vide Rule 8B promulgated under Notification No.936-G, dated 28.2.2005 (w.e.f. 14.6.2005)]

Group-I. — Matters relating to land laws and orders and direct-relating relating to land (including land revenue) may be classified under the following sub-heads:—

- (a) Dispute about ceiling.*
- (b) Dispute about recording of barga.*
- (c) Dispute about preparation of record of rights in general.*
- (d) Grant and cancellation of pattas.*
- (e) Requisition and acquisition proceedings.*
- (f) Dispute relating to tenancy laws and eviction proceedings.*
- (g) Mines and Minerals including minor minerals.*
- (h) Land development and planning.*
- (i) Tank improvement and settlement of ferries and fisheries.*

- (j) *Restoration of Alienated land.*
- (k) *Dispute as to land revenue.*
- (l) *Miscellaneous.”*

9. On reading particulars provided under Group-I within Schedule ‘B’ and its different sub-heads, this Court does not find that issue raised in this writ petition comes under any of sub-heads. Reliance is placed on a particular sub-head (l), *i.e.*, “Miscellaneous” but said sub-head has to be read taking note of subjects indicated in other sub-heads, these are, from (a) to (k). It is also required to be indicated herein that excluding Group-VII and Group-IX under Schedule ‘B’ of Appendix IV, all other Groups — Group-I, Group-II, Group-III, Group-IV, Group-V, Group-VI and Group-VIII contain identical sub-head, *i.e.*, “Miscellaneous”.
10. Therefore, mere inclusion of sub-head “Miscellaneous” under Group- I does not include any issue which is not classified under sub-heads (a) to (k). Purpose of inclusion of sub-head (l) *i.e.*, “Miscellaneous” is to include matters relating to land which are not specifically classified under sub-heads (a) to (k). But in the present case prayers are made for issuing mandamus upon the concerned police authorities to take certain steps for maintaining peace and public order and to provide an atmosphere where petitioner no.1 organization and others can peacefully run their respective stalls which will be temporarily set up during Puja days.
11. Mere making an application before the Sub-divisional Officer *vide* representation dated 1st October, 2026 seeking certain permission does not bring the issue raised in this writ petition under the ambit of Group-I

(Land) matter of classification list of different types of writ proceedings.

12. In order to buttress contentions raised on behalf of State respondents, certain provisions of the West Bengal Highways Act, 1964 are relied upon to address before this Court about permissibility of erecting stalls on highways without permission of competent authority under the West Bengal Highways Act, 1964. However, concerned Highways Authority is not before this Court and no specific stand is made before this Court on behalf of Highways Authorities that erection of temporary book stall as proposed by the petitioners is impermissible.
13. In view of aforesaid discussion, this Court does not hesitate to conclude that the issue raised in this writ petition is rightly classified as Group-IX (Police inaction) matter.
14. Since preliminary point raised in this writ petition on behalf of State respondents is decided, therefore, there is no impediment in considering the prayers couched in this writ petition as this court is having determination today to take up Group-IX (Police inaction) matters. Court has also found that there is urgency in this matter since prayer is made for running book stall during Durga Puja days as it was done consistently for a long period of time during previous years.
15. A specific case is made out in this writ petition that on 6th October, 2026 petitioner no.1 organization made arrangements for erecting a temporary bamboo structure to house a book stall like previous years when allegedly members of organization being respondent no.5 arrived at the place and forcibly obstructed the members and workers of petitioner no.1

organization from erecting temporary bamboo structure. Subsequently, members of respondent no.5 organization constructed temporary bamboo structure at the same place.

16. In terms of the order dated 14th October, 2026, a Supplementary affidavit is filed on behalf of petitioners and same is taken on record.
17. It is disclosed in paragraph 3 of said supplementary affidavit that members of a particular organization being arrayed as respondent no.5 in writ petition completed work for erecting a stall at the place where petitioner no.1 organization used to erect book stall in previous years. It is also alleged in paragraph 3 of the supplementary affidavit that when petitioners tried to construct a book stall, police authorities prevented them and allowed the organization being respondent no.5 to occupy said place.
18. However, allegations made by the petitioners in writ petition and supplementary affidavit against police authorities concerning erection of book stall are denied on behalf of State respondents. Contention of state respondents as it appears is that land on which stalls are being erected belongs to PWD. Therefore, permission from concerned authority of PWD is necessary.
19. Taking such submission into consideration *vide* order dated 14th October, 2026, Inspector-in-Charge, Bongaon Police Station being respondent no.4 was directed to cause an enquiry by 14th October, 2026 and submit a report today disclosing whether others who have set up stalls beside PWD road and on land of PWD have obtained permission from concerned authorities of PWD/ other concerned State authorities or not.

20. It is submitted on behalf of State respondents that no such report is ready and same is not filed today. Therefore, at the time of deciding this writ petition it is not on record before this Court that apart from petitioners other stalls or temporary bamboo structure are not erected at the place in question and those who have erected stalls have obtained permission from PWD/ Government authority. Court finds that petitioner no.1 organization has become victim in the matter of erecting book stall whereas others have been permitted. Such situation is not countenanced when a case is made out that petitioner no.1 organization for a long period of time have been erecting book stall during Durga Puja days and selling books.
21. When others are selling different items by erecting stalls during puja days at the locale then petitioner no.1 organization ought not to be prevented from selling books by erecting stalls. Question would have been different if no stalls are permitted to be erected. Before parting with, it needs to be observed that dissemination of different political thoughts and ideologies is welcome in democracy since it makes the democracy fruitful, deep-rooted and matured. It is expected of present ruling dispensation to create an atmosphere where persons owing allegiance to different political ideologies will not hesitate to express their views.
22. Superintendent of Police, Bongaon Police District being respondent no.3 and Inspector-in-Charge, Bongaon Police Station being respondent no.4 are directed to maintain public order and peace which would enable the petitioner no.1 organization and its members to erect book stall within 100 meters from the place where

they intended to erect book stall and sell their books during Durga Puja days.

23. Aforesaid police authorities are also directed to depute police personnel to prevent others from disturbing members of petitioner no.1 organization to run book stall and sell books during Durga Puja days.
24. Respondent no.3 is directed to file a report disclosing steps taken in terms of order passed today.
25. List the matter under the heading "*To Be Mentioned*" on 23rd November, 2026 for further consideration.

(SAUGATA BHATTACHARYYA, J.)

Later

26. After dictating the order in open court Mr. Billwadal Bhattacharyya, learned Additional Advocate General representing State respondents has prayed for stay of operation of this order.
27. Such prayer is considered and refused.
28. Parties to act on the server copy of this order duly downloaded from the official website of this court.

(SAUGATA BHATTACHARYYA, J.)