

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

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

WPA 31433 of 2026

Dipu Das

Vs.

State of West Bengal & Ors.

For the Petitioner	: Mr. Bikash Ranjan Bhattacharya, Senior Adv. Mr. Samim Ahammed, Mr. Ambiya Khatun, Mr. Arka Ranjan Bhattacharyya, Mr. Asif Ikbal Baidya advocates
For the State Election Commission	: Ms. Sonal Sinha, Mr. Sandipan Das advocates
For the KMC	: Mr. Surajit Nath Mitra, A.G. Sr. Adv Mr. Debanjan Mukherjee advocates
For the State	: Mr. D.N. Roy, Ld. G.P. Ms. Aparna Banerjee, Mr. Anindya Basu, Mr. Bikash Kumar Sriwastav advocates
Heard on	: 28.10.2026
Order passed on	: 29.10.2026

Hiranmay Bhattacharyya, J.:-

1. This application under Article 226 of the Constitution of India is at the instance of an individual residing within the limits of Kolkata Municipal Corporation seeking a declaration that entire exercise of determination of the number of wards of Kolkata Municipal Corporation is void; for quashing

of the Notification dated 11.09.2026 substituting Schedule II of the Kolkata Municipal Corporation Act, 1980; for prohibiting the 6th respondent from determining the reservation of wards and for other reliefs.

2. Petitioner also prayed for an interim order of stay of operation of the Notification dated 11.09.2026 and to restrain the 6th respondent from issuing any notification calling an election to the Kolkata Municipal Corporation on the basis of Schedule II as notified vide Notification dated 11.09.2026.
3. Petitioner has challenged the Notification dated 11.09.2026 whereby the municipal area as specified in the Schedule to the Kolkata Municipal Corporation Act, 1980 (for short “the 1980 Act”) has been divided into 209 wards in place of the existing 144 wards.
4. Petitioner alleges that the delimitation exercise has been undertaken on the basis of electoral rolls instead of the actual population thereby excluding a substantial number of residents from consideration. Petitioner states that the boundaries of the wards have been drawn without considering geographical contiguity, compactness and administrative convenience. Such delimitation exercise was undertaken upon being influenced by previous electoral results with the mala fide intention of securing partisan advantage of the ruling political party. It also resulted in unequal municipal representation.
5. Mr. Bhattacharya, learned Senior Advocate appearing in support of the writ petition contended that the delimitation exercise appears to have been initiated on the recommendation received from the Kolkata Municipal Corporation (for short “KMC”). He further contended that such exercise lacks the basic foundation as no recommendation could have been made by KMC after dissolution of the Corporation. He placed reliance upon the provisions of Sections 117 and 118 of the 1980 Act in support of his contention as to the effect and consequences of such dissolution. Mr. Bhattacharya contended that the Corporation consists of the elected

councillors as per Section 5 of the 1980 Act and after dissolution of the Corporation, the Municipal Commissioner, who is only an Officer of the Corporation under Section 14 cannot make any recommendation for delimitation. He contended that in the absence of any valid recommendation by the KMC, the State Government could not have exercised power to amend Schedule II of the 1980 Act. Mr. Bhattacharya referred to various documents, charts etc. in course of his argument in support of his contention that the delimitation exercise undertaken by the State Government in the instant case is a typical case of “gerrymandering” in order to give an unfair advantage to the party in power by manipulating the constituencies. In support of such contention, he placed reliance upon the decision of the Hon’ble Supreme Court in **State of Madhya Pradesh and others vs. Devilal** reported at **(1986) 1 SCC 657**.

6. Learned Advocate General representing KMC raised an objection against maintainability of this writ petition by referring to Article 243 ZG of the Constitution of India which bars interference by courts with regard to any law relating to delimitation of constituencies. In support of such contention he placed reliance upon the decision of the Hon’ble Supreme Court in the case of **State of Uttar Pradesh & Ors. vs. Pradhan Singh Kshettra Samiti and others** reported at **1995 Supp (2) SCC 305**. Learned Advocate General submitted that the Municipal Commissioner was appointed as an Administrator by an order dated 08.06.2026 and the Administrator has been vested with all the powers of the members of the Corporation. He further contended that in the meantime, Section 5 of the 1980 Act has been amended by Kolkata Municipal Corporation (Amendment) Act, 2026. He contended that objection(s)/suggestion(s) were invited at every stages of such delimitation exercise and opportunity of hearing was also afforded to the objectors and thereafter, the Notification dated 11.09.2026 was published. He contended that the writ petitioner did not submit any objection against the proposed alteration and has approached this Court challenging the Notification. The learned Advocate General concluded by

submitting that no case has been made out by the petitioners for an interim relief.

7. Learned advocates representing the other respondents adopted the arguments advanced by the learned Advocate General.
8. Heard the learned advocates for the parties as to whether the petitioner is entitled to any interim relief. Perused the materials placed.
9. At this stage, it would be relevant to record that a photocopy of the Order dated 08.06.2026 appointing the Municipal Commissioner as an Administrator and a photocopy of the Kolkata Municipal Corporation (Amendment) Act, 2026 along with the relevant notification has been produced which are taken on record. Copies of the aforesaid documents have also been supplied to the learned advocate for the petitioner in course of hearing of this writ petition.
10. Since an objection as to the maintainability of this writ petition has been raised by the learned Advocate General, this Court proposes to first deal with such objection.
11. Article 243 ZG of the Constitution of India, bars interference by Courts in electoral matters. The said Article starts with a non-obstante clause and clause (a) states that the validity of any law relating to the determination of constituencies or the allotment of seats to such constituencies made or purporting to be made under Article 243 ZA shall not be called in question in any Court.
12. In **Pradhan Singh Kshettra Samiti** (supra), the Hon'ble Supreme Court while considering pari materia provisions relating to panchayats under Article 243-0-(a) held that the issue of delimitation could not have been challenged nor the Court could have entertained such challenge except on the ground that before the delimitation, no objections were invited and no hearing was given. The Hon'ble Supreme Court further clarified that even

such challenge could not have been entertained after the notification for holding the elections have been issued.

13. It therefore, follows that a delimitation exercise can be challenged on limited grounds.
14. The learned Advocate General as well as the other advocates representing the respondents did not submit that notification for holding the elections has been issued prior to the writ petition being taken up for consideration.
15. Petitioner stated that the delimitation exercise was conducted in violation of the provisions of the 1980 Act and without affording any opportunity to raise objection against the proposal for delimitation.
16. Considering the issues raised in this writ petition and also that election notification has not been issued as yet, this Court is inclined to entertain this writ petition.
17. This Court shall now consider whether the petitioner is entitled to any interim relief.
18. Record reveals that a notice dated 5th August, 2026 was issued by the Joint Secretary to the Government of West Bengal by the order of His Excellency, the Governor of the West Bengal indicating that the preparatory work for the initial draft Schedule II of the 1980 Act describing the boundaries of the projected wards of the Kolkata Municipal Corporation as per the recommendations received from the Kolkata Municipal Corporation. Such notice was published for public viewing and for inviting the objections/suggestions, if any. As per the said notice, the preparatory work for the initial draft Schedule II of the 1980 Act was made available for public inspection with effect from 5th August, 2026 to 13th August, 2026. The said notice further indicated that the final publication of Schedule II will be done after the amendment of the relevant provisions of the Kolkata Municipal Corporation Act, 1980 in due course.

19. From the materials disclosed in the writ petition, it appears that the objection with regard to the process of de-limitation of the Kolkata Municipal Corporation Wards was submitted before the Commissioner of the Kolkata Municipal Corporation by the Secretary of a political party, who has been impleaded as respondent no. 10 in the writ petition.
20. For the purpose of revision of number of wards of the Kolkata Municipal Corporation having regard to the ward-wise population, dwelling pattern, geographical conditions and economic consideration of the Corporation, a Bill No. 19/2026 was published in the Kolkata Gazette Extraordinary dated 7th August, 2026.
21. In course of the hearing of the writ petition, it was submitted by the learned Advocate General that the Kolkata Municipal Corporation (Amendment) Act, 2026 has been published in the Kolkata Gazette on 20th August, 2026. From the photocopy of the documents filed by the Kolkata Municipal Corporation, it appears that the assent of the Governor was obtained and the same was first published in the Kolkata Gazette Extraordinary on 20th August, 2026. It further appears from the said Kolkata Municipal Corporation (Amendment) Act, 2026 that Clause (a) of Sub-section (1) of Section 5 and Sub-section (2) of Section 5 of the 1980 Act was amended by substituting the words “two hundred and nine elected councillors” with the words “one hundred and forty-four elected councillors”. Such amendment came into force on 20th August, 2026. The Administrator and the Municipal Commissioner made a communication to the Additional Chief Secretary, Urban Development and Municipal Affairs Department, Government of West Bengal vide Memo dated 22nd August, 2026 enclosing the list of the existing wards with the new wards with Part numbers and Assembly Constituency numbers pertaining to Kolkata Municipal Corporation.
22. The Additional Chief Secretary issued an order dated 22nd August, 2026 indicating that the Draft Schedule II of the 1980 Act will be available for public inspection at the Office of the Kolkata Municipal Corporation with effect from 22nd August, 2026 to 3rd September, 2026 during the office

hours. The said order specifically states that the objection(s) / suggestion (s), if any, may be submitted to the Municipal Commissioner, Kolkata Municipal Corporation within the aforesaid period.

23. It appears from the records that the objection with regard to the process of de-limitation of the Kolkata Municipal Corporation wards as submitted by respondent no. 10 vide letter dated August 12, 2026 was again forwarded to the Municipal Commissioner by electronic mail.
24. From the materials disclosed in the writ petition, it is evident that the consecutive dates were fixed for hearing of the claims and objections concerning draft publication of amendment of Schedule II of the 1980 Act.
25. No materials have been disclosed in the writ petition to indicate that the writ petitioner submitted any objection (s) / suggestion (s) against the draft publication on amendment of Schedule II of the 1980 Act at any point of time. A person having not submitted any objection / suggestion against the draft publication on amendment of Schedule II of the 1980 Act cannot be allowed to take a stand at this point of time that no opportunity of hearing was given to him prior to issuance of the notification dated 11th September, 2026.
26. The petitioner would contend that the delimitation exercise commenced prior to amendment of Section 5 of the 1980 Act. This Court is not inclined to accept such contention of the petitioner for the reasons as stated hereinafter.
27. The assent of His Excellency, the Governor of the State of West Bengal to the Kolkata Municipal Corporation (Amendment) Act, 2026 was given and the said amendment Act was published in the Kolkata Gazette Extraordinary dated August 20, 2026. It is only after the Amendment Act of 2026 was enacted, and the provisions of the Act came into force, the Administrator and the Municipal Commissioner KMC submitted the list of the existing wards and the new wards before the Additional Chief Secretary, Urban Development and Municipal Affairs Department under a covering letter

dated August 22, 2026 and an order dated August 22, 2026 was issued inviting objections/suggestions to draft Schedule II of 1980 Act.

28. To the mind of this Court, the delimitation exercise effectively commenced after Section 5 of 1980 Act was amended by the Amendment Act, 2026. Only the preparatory work for the initial draft Schedule II of the 1980 Act was initiated prior to amendment of Section 5. That by itself cannot vitiate the delimitation exercise which effectively commenced after the amendment of Section 5 of the 1980 Act.
29. From the aforesaid discussion, it is evident that objections/suggestions were invited against preparatory draft Schedule II as well as the draft Schedule II of the Act of 1980. Thus, objections/suggestions were invited at various stages of such an exercise. Opportunity of hearing appears to have been afforded to the objectors and thereafter the notification dated September 11, 2026 was published in the Kolkata Gazette Extraordinary dated September 11, 2026.
30. By virtue of the said notification, Schedule II of the 1980 Act was amended and the number of wards of the KMC constituted under the 1980 Act has been determined as “two hundred and nine wards” instead of present “one hundred and forty-four wards”. It further appears from the said notification that the same was issued in exercise of powers under Section 601 of the 1980 Act.
31. Section 601 of the 1980 Act states that the State Government may, or on the recommendation of the Corporation shall by notification, add to, amend, or alter any Schedule to the Act except Schedule I. Thus Section 601 of the 1980 Act empowers the State Government to alter any Schedule of 1980 Act except Schedule I.
32. In the case on hand, the State Government exercised its powers, on the recommendation of the Corporation, to amend Schedule II of the 1980 Act. To the mind of this Court, amendment of Schedule II of the 1980 Act falls

within the domain of the State Government, subject to fulfilment of conditions laid down thereunder.

33. Thus, upon a reading of Section 601 of the 1980 Act, this Court is of the view that it is for the State Government to decide in what manner the constituencies or wards of KMC will be delimited or altered.
34. It is now well settled that it is not for the Court to dictate the manner in which the same would be done. If a delimitation exercise is carried out inconformity with the provisions of the relevant statute, and the constitutional provisions, and no breach of such provisions have been committed, the Court cannot interfere with the same.
35. This Court has already observed that at various stages objection(s)/suggestion(s) were invited and nothing appears to this Court at this stage that such power was exercised in breach of any provisions of 1980 Act or the provisions of the Constitution of India.
36. That apart, the Corporation stood dissolved and an Administrator has been appointed for a limited period. Section 117(1) and (4) of the 1980 Act provides that such dissolution shall be for a period not exceeding six months. Sub-Section (5) of Section 117 provides that where the Corporation has been dissolved under Sub-Section (1) or Sub Section (4), an election to constitute the Corporation shall be completed before the expiry of six months from the date of its dissolution. From the mandate of Section 117, it is evident that an election is to be held to constitute the Corporation which shall have to be completed before the expiry of six months from the date of its dissolution.
37. The Corporation has to perform various functions both obligatory and discretionary as specifically mentioned under Chapter IV of the 1980 Act. For the performance of such functions, a properly constituted Corporation with elected councillors is an absolute necessity.

38. Dissolution of Corporation under Sub-sections (1) or (4) of the 1980 Act shall not effect or imply in any way the dissolution of the Corporation as a body incorporate in the light and provisions contained in Subsection (2) of Section 118 of the 1980 Act. Section 118 provides for consequences of dissolution. Clause (b) of Sub-section 1 of Section 118 of the 1980 Act empowers the State Government to appoint such person or persons for the purpose of exercising the powers and duties under the provisions of the 1980 Act or any rule or regulation made thereunder or of any law in force for the time being which may be exercised or performed by the members of the Corporation or the Mayor in Council or any committee of the Corporation or the Mayor or the Chairman.
39. In the case on hand in exercise of powers under Section 118(1)(b) of the 1980 Act His Excellency, The Governor of the State of West Bengal was pleased to appoint the Municipal Commissioner, Kolkata Municipal Corporation as an Administrator for the purpose as indicated in the said order for a period not exceeding six months or until the newly elected Councillors take over charge.
40. In view of the order dated 08.06.2026 this Court holds that upon dissolution of the Corporation under Section 117 of the 1980 Act the Municipal Commissioner being appointed as the Administrator was vested with the powers and duties of the members of the Corporation, the Mayor in Council and any committee of the Corporation constituted under the said Act and the Mayor and the Chairman.
41. For such reason this Court is not inclined to accept the contention of Mr. Bhattacharya that the Municipal Commissioner who was appointed as the Administrator vide order dated 08.06.2026 was not competent to make any recommendation for delimitation exercise as required under Section 601 of the 1980 Act.
42. For all the reasons as stated hereinbefore, this Court is of the view that the petitioner failed to make out a prima facie case for an interim order. Interim

order, as prayed for in the writ petition, if passed, would affect the interest of the public at large as the Corporation in that event would have to function in the absence of elected councillors. The balance of convenience and inconvenience is against passing of any interim order in a case of this nature.

43. In **Devilal** (supra) the State Government issued a notification seeking to restructure the constituencies of the block of a Panchayat in the midst of the election. The Hon'ble Supreme Court after noting the provisions of the relevant statute for redistribution of the constituencies in a block held that after the process of election has started, such redistribution act would necessarily change the whole pattern of voting in the election of the members of the concerned Panchayat which would amount to gerrymandering. The Hon'ble Supreme Court on the facts of the said reported case held that there was no real occasion for the State Government to have issued the impugned notification seeking to restructure the constituencies of the block in the midst of the election. The Hon'ble Supreme Court further observed that even if there was such a power, the State Government was in duty bound to publish the proposal giving an opportunity to the persons affected to raise their objections to the proposed alteration.
44. The said reported decision is distinguishable on facts as in the case on hand, the delimitation exercise has been completed and election notification is yet to be issued and opportunity was also afforded to the affected persons to raise their objection to the proposed alteration. Thus, the said reported decision cannot come to the aid of the petitioner at this stage.
45. For all the reasons as stated hereinbefore, the prayer for interim relief stands refused.
46. Let affidavit-in-opposition be filed by the respondents within a period of three weeks from date. Reply thereto, if any, be filed within one week thereafter.

47. Parties will be at liberty to pray for enlistment of this matter '**For Hearing**' after expiry of the period fixed for exchange of affidavits and strictly upon notice to each other.
48. It is, however, made clear that the findings recorded hereinbefore are all *prima facie* findings in order to support the conclusion of this Court while rejecting the prayer for interim relief.
49. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)

Later:

Date:29.10.2026

After this order is pronounced in open Court, Mr. Kallol Bose, learned advocate assisted by Mr. Tapas Maity, learned advocate appearing for the respondent Nos. 10 and 11 submits that only yesterday, that is on 28.10.2026 after the conclusion of hearing he was briefed in this matter to represent the respondent Nos. 10 and 11.

Mr. Biswaroop Bhattacharyya, learned advocate assisted by Mr. Arka Kumar Nag, Ms. Shrobana Sengupta, Mr. Kaushik Bandyapadhyay, learned advocates appears and submits that the copy of the writ petition was served upon the 9th respondent only yesterday, that is on 28.10.2026 on or about 3.00 p.m. and Mr. Bhattacharyya has been engaged in this matter in the late evening on 28.10.2026.

On a query of the Court, Mr. Ahmed, learned advocate for the petitioner submits that soft copies of the writ petition was duly served upon all the respondents on 26th October, 2026. He further submits that after his prayer for taking up the hearing of the writ petition, out of turn was allowed upon mentioning at the first sitting of the Court on 28.10.2026, he has again

forwarded notices to the respective respondents through electronic mail between 10.35 a.m. to 10.50 a.m on 28.10.2026 intimating them that this matter shall be taken up at 3.00 p.m. on 28.10.2026. He however submits that documents in support thereof have not been incorporated in the Affidavit-of-Service.

The learned advocates representing the writ petitioner, the State Election Commission, the Kolkata Municipal Corporation and the State of West Bengal were heard on 28.10.2026 and today was fixed only for passing orders as due to paucity of time, the order could not be dictated yesterday(i.e. on 28.10.2026).

Mr. Bose and Mr. Bhattacharyya, learned advocates for the respective respondents prayed for an opportunity of hearing today.

Since the petitioner and the respondent authorities were heard extensively yesterday, that is on 28.10.2026 with regard to the entertainability of the writ petition as well as the issue of grant of any interim order and an order has been pronounced in open Court today, this Court is not inclined to grant any further opportunity to the other respondents to make any further submissions at this stage to support the writ petitioner on the issue of interim relief.

The affidavit-of-service filed in Court today is taken on record.

Mr. Ahmed, learned advocate appearing for the petitioner prays for leave to file a supplementary affidavit of service to incorporate the documents to support service of the notice indicating that the matter would be taken up for hearing on 28.10.2026 at 3.00 p.m. leave is granted to file Supplementary Affidavit by 30.10.2026.

(HIRANMAY BHATTACHARYYA, J.)

(Saswati,Amitava,Sanchita)