WBCHCA0283102025

Item No.4
Ct. No.1
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA (P) 225 of 2025
+
I.A. No. CAN 1 of 2025

Md. Kismat Hossain
Vs.
The State of West Bengal & Ors.

Appearance:
Mr. Prosenjit Mukherjee
Mr. Nirmalya Kr. Das
Mr. Jahangir Hossain

].....Advocates for the Petitioner

Mr. Srijib Chakraborty
Mr. Aditya Mondal

].....Advocates for State

Mr. Sourav Saha
Ms. Suchismita Lala
Mr. T. Mitra

].....Advocates for Respondent Nos.3,4,6 & 7

Mr. Wasim Akram

].....Advocate for Respondent No.5

Mr. N. C. Bihani
Mr. Soumya Mukherjee

].....Advocates for W.B.P.C.B.

CORAM: RAVINDRA VITHALRAO GHUGE,
CHIEF JUSTICE
&
SUPRATIM BHATTACHARYA, J.
Date: 17.11.2026

Order (Per Court)

1. This matter was heard yesterday for a considerable time. The hearing continued even today.

2. The Petitioner, who claims to have filed this PIL in public interest, appears to be a competitor to Respondent No.5, who has applied for starting a Pathology Lab. The Petitioner also operates a Pathology Lab. The grievance is that Respondent No.5 is operating a Pathology Lab without statutory approvals and necessary compliances.

3. The record reveals that the Petitioner obtained a copy of a Medical Report of a Patient viz. Mrs. Neha Khatun, purportedly issued by Respondent No.5/Pathology Lab. The said report placed at Page No.17 in the Petition is a photostat copy. The Petitioner claims that the said copy was obtained by him from Mrs. Neha Khatun. Respondent No.5 has denied that the said photostat copy is a report of Hematology concerning Mrs. Neha Khatun dated 19.06.2025.

4. The counsel representing the State has filed a report stating therein that the application of Respondent No.5 for starting a new Pathology

Lab, in the same colony in which the Pathology Lab of the Petitioner exists, is a subject-matter of scrutiny and verification. A report has been tendered by the competent authority, the Assistant Chief Medical Officer of Health, Sadar Malda dated 29.07.2025, addressed to the Chief Medical Officer of Health, Malda. The application of Respondent No.5 is found to be in order. After being thoroughly verified, it is opined that his clinical establishment is eligible for a new clinical establishment license, to operate a small pathological clinic.

5. There are two reasons why we are not inclined to entertain this PIL Petition. Firstly, that the Petitioner noticed a competition in Respondent No.5, if he finally succeeds in getting the clinical establishment license. Secondly, there are disputed issues before us. The Petitioner has produced a photostat copy of a clinical report pertaining to Mrs. Neha Khatun, which Respondent No.5 has denied. The reports of the statutory authorities do not indicate that Respondent No.5 was operating the Pathological Laboratory when it was being scrutinized for verification in order to consider the application for grant of a new clinical establishment. Moreover, there is nothing before us, which would conclusively prove that Respondent No.5 was

illegally operating a Pathology Lab. Even the statutory authorities have not made any such statement in their reports/affidavits tendered to the Court.

6. In view of the above, this Petition cannot be termed as being a Petition in Public Interest since, as it involves a private commercial interest of the Petitioner.

7. As such, **this Petition is dismissed** by imposing cost of Rs.10,000/-, which the Petitioner shall deposit in this Court on or before 10th December, 2026. If the amount is not deposited, the District Magistrate shall recover the said amount from the Petitioner by following the procedure applicable for recovery of land revenue dues.

(SUPRATIM BHATTACHARYA, J.) **(RAVINDRA V. GHUGE)**
Chief Justice