

06.05.2026
SL No.7
Court No.12
(gc)

**MAT 796 of 2026
CAN 1 of 2026**

**Tilak Dubey & Anr.
Vs.
State of West Bengal & Ors.**

Mr. Lokenath Chatterjee,
Mr. Ratikanta Pal,
Mr. Jaydeb Ghorai,
Mr. Suman Chatterjee,
Mr. Saugata Banerjee,
Mr. Diptesh Ghorai

...for the Appellants.

Mr. Swapan Kr. Pal,
Ms. Mahuya Dutta Biswas

...for the State Respondents.

Mr. Subhasis Bandopadhyay

...for the Municipality.

1. The affidavit-of-service is taken on record.
2. The appeal arises out of an order dated April 20, 2026 passed in WPA 6276 of 2026. By the order impugned, the learned Judge dismissed the writ petition with cost of Rs.1,00,000/- to be paid by the appellants to the Calcutta High Court Legal Services Committee.
3. His Lordship was of the view that the appellants had not approached the writ court with clean hands, inasmuch as, an earlier order passed by another Coordinate Bench in WPA 16284 of 2023 had not been brought to the notice of His Lordship when the interim order was passed restraining cancellation.
4. We find that there was an earlier writ petition challenging a decision of the municipality to take

steps against the appellant, as per the Rules. The appellants were allowed to approach the municipality to contest the proposal of the municipality. In view of non-deposit of huge amount of money by violating the terms and conditions of the concerned agreement of notification, the municipality decided to proceed against the appellants.

5. However, we find from the tenor of the order of the learned Judge dated July 31, 2023 passed in WPA 16284 of 2023 that, the order does not in any way affect the subsequent challenge in the writ petition, in which the impugned order was passed. It would have been a different case altogether, had the failure to mention the proceedings arising out of WPA 16284 of 2023 had created an undue advantage in favour of the appellants or had put the municipality at a disadvantage.
6. In the order passed in WPA 16284 of 2023, an observation had been made that, the disputes between the municipality and the appellants were private disputes, covering the area of contractual obligations and the writ court should not go into such disputed questions of fact. However, Her Lordship had allowed the appellants to approach the municipality with documents and material particulars in support of their contention that, the demand from the appellants by the municipality

towards deposit of money against the beautification agreement, was not correct.

7. The above order was complied with by both the parties. The appellants went before the municipality with relevant documents and the municipality granted a hearing. Thereafter, the municipality once again passed an order on August 22, 2023, thereby, coming to a conclusion that the outstanding dues should be paid by the appellants within seven days.
8. Records also reveal that some payments were made pursuant to the said decision. The learned Advocate for the municipality submits that the payments were not made as per the demand of the Municipality. There was violation of the contractual agreement. The appellants have to pay the outstanding amount of more than Rs.40 lakhs.
9. Surprisingly, the municipality issued a letter on February 25, 2026, informing the appellants that the agreements regarding zone no.4 and zone no.6 had been cancelled as per the decision of the Board of Councilors. This order was challenged in the writ petition. The order does not clarify the date of the meeting, whether the appellants were heard, whether the appellants were allowed to make their submissions on the proposal for cancellation and whether the cancellation was only on account of

unpaid dues and, if so, what was the quantum payable. We do not find from the order that notices were issued proposing to cancel the agreement.

10. Learned Advocate for the municipality although makes an argument that the cancellation was a follow up of the original proposal to take steps in accordance with law, which was made on May 31, 2023, but we do not find that the decision dated May 31, 2023 was a decision to cancel the agreement.

11. It is the specific contention of the appellants that, upon accepting the periodic payments towards the alleged dues, the appellants continued to work.

12. The learned Judge has held that the order of cancellation was already under challenge in a writ petition in which an observation was made that the dispute was contractual in nature and outside the purview of a writ court, but the document dated May 31, 2023 does not reflect that it was an order of cancellation of the agreement or that the proposal was to cancel the agreement. Rather, the Board of Councilors had decided that if the appellants did not pay the amount due, they would take steps in accordance with the rules. Hence, the learned Judge misconstrued the scope of challenge in the writ petition.

13. The scenario completely changed after the appellants were allowed a hearing demands were made on the basis of the decision and the appellants were also allowed to pay.
14. If the appellants has not paid as demanded, the municipality is always at liberty to take steps, but before deciding to cancel the agreement under the changed circumstances, it is the duty of the municipality to put the appellants on notice that, unless the amount due (by quantifying the amount) was paid within a stipulated time, the municipality will be constrained to cancel the agreement.
15. Under such circumstances, the order impugned and the order of cancellation are set aside.
16. We find that a document was issued by the Chairman, Burdwan Municipality to the appellant no.2 on April 17, 2026 asking the appellants to maintain proper lighting and cleanliness in zones 1 to 6 and the purported order of cancellation relates to zones 4 and 6, which is within the zones included in the letter.
17. The letter is taken on record.
18. However, the right of the municipality to proceed against a contractor, who commits any irregularity or breach of the contract, is always reserved, but the proper procedure has to be followed by

observing the principles of natural justice. The Municipality can always take steps, as per law.

19. Accordingly, the appeal and the connected application are disposed of.
20. There shall be no order as to costs.
21. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)