

## Calcutta High Court - Appellate side

[Back](#)

### Appellate side Case Details

Case Type	: WPA		
Filing Number	: 16202/2024	Filing Date:	20-06-2024
Registration Number	: 16081/2024	Registration Date:	20-06-2024
<b>CNR Number</b>	<b>: WBCHCA-030650-2024</b>		

### Case Status

First Hearing Date	: 25th July 2024
Next Hearing Date	: 09th June 2025
Stage of Case	: NEW MOTION
Coram	: 265721HON'BLE JUSTICE AMRITA SINHA
Bench	: Single Bench
State	: West Bengal
District	: DINAJPUR UTTAR
Judicial	: MANDAMUS SECTION
Causelist Name	: Monthly List
Not Before Me	:

### Petitioner and Advocate

1) KRISHNAPADA @ KRISHNA PADA SARKAR  Advocate- RANOJOY CHATTERJEE
--

### Respondent and Advocate

1) STATE OF WEST BENGAL AND ORS.
----------------------------------

### Acts

Under Act(s)	Under Section(s)

### Subordinate Court Information

Court Number and Name	: ---
Case Number and Year	: 0
Case Decision Date	: --
state	:
District	:

### History of Case Hearing

Cause List Type	Judge	Business On Date	Hearing Date	Purpose of hearing
Daily List	HON'BLE JUSTICE SHAMPA SARKAR		25-07-2024	NEW MOTION

### Orders

Order Number	Order on	Judge	Order Date	Order Details

### Category Details

Category	GROUP A (WRIT MATTERS) ( 1 )
Sub Category	Residuary ( 26 )

### OBJECTION

Sr.No.	Scrutiny Date	OBJECTION	Compliance Date	Receipt Date
1	20-06-2024	<b>All Objections are Complied</b>	--	--

[Back](#)

1  
K. S. 943  
MOS - 943  
K. S. 943

DISTRICT: UTTAR DINAJPUR

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

W.P.A. NO. 16081 OF 2024

IN THE MATTER OF:

An application under Article 226 of the  
Constitution of India.

-AND-

IN THE MATTER OF:

Krishnapada @ Krishna Pada Sarkar,  
son of Late Gourpada Sarkar, residing  
at Raiganj Tulsipara, Post Office and  
Police Station- Raiganj, District- Uttar  
Dinajpur, West Bengal, PIN-733134.

...Writ Petitioner

-Versus-

1. The State of West Bengal service  
through the Chief Secretary,  
Government of West Bengal, having his  
office at Nabanna, (13<sup>th</sup> Floor), 325,  
Sarat Chatterjee Road, Shibpur,  
District- Howrah, West Bengal, PIN-  
711102.

2. The Chief Secretary, Government of  
West Bengal, having his office at

Nabanna, (13<sup>th</sup> Floor), 325, Sarat Chatterjee Road, Shibpur, District- Howrah, West Bengal, PIN-711102.

3. The Inspector, Anti Corruption Unit, Uttar Dinajpur, having his office at Karnajora, Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733130.

4. The District Magistrate-Cum-Collector, District- Uttar Dinajpur, having his office at Karnajora, Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733130.

5. The Inspector-in-Charge, Raiganj Police Station, having his office at Thana Rd, Millan Para, Bahin, Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733134.

.....Respondents

To

The Hon'ble T.S. Sivagnanam, Chief Justice and His Companion Justices of the said Hon'ble Court.

The humble petition on behalf of the petitioner named above,

**MOST RESPECTFULLY SHEWETH:-**

1. Your petitioner is a peace loving and law abiding citizen of this country and is having its office in the address mentioned in the Cause

Title of this instant Writ Application. He is a Chartered Accountant by profession having his independence practice and he is also the Proprietor of a Chartered Accountant Firm namely M/S K.P. Sarkar and Co. having its office at 1 Number Mill Campus, Nisith Sarani, Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733134.

2. Your petitioner states that being a law abiding citizen, he had to face the untold sorrow of being falsely implicated in a case wherein he just rendered his professional services of a Chartered Accountant but he was forcefully crushed inside a case of corruption of wide amplitude without any fault of his. The facts of the case ran thus: There is a presence of a District Leprosy Society under the management of the Chief Medical Officer of Health who is the Member Secretary of the said Society and the respondent number 4 is the Chairman of the said Society by virtue of his post. The respondent number 4 is also the District Vigilance Officer and under him the Anti Corruption Unit runs within the District of Uttar Dinajpur. There was a person namely Ramendra Nath Sanyal who was the UDC of the Chief Medical Officer of Health and was entrusted with the job of maintaining Cash Register of the Society under the guidance and approval of both the respondent number 4 and the Chief Medical Officer of Health who are the Chairman and the Secretary of the said Society and the said UDC was in charge of the Cash Register from 27<sup>th</sup> March, 1995 to 30<sup>th</sup> October, 1998. There was some allegation of corruption in the management of the affairs of the said Society as a result of which the respondent number 3 under the management of the respondent number 4 started the enquiry. The then Chief Medical Officer of Health was transferred to the Writer's Building as Deputy Director of Health Department. On 2<sup>nd</sup> August, 2001, the then in-charge of the Chief Medical Officer of Health was called on by the respondent number 3 at Karnajora, Raiganj. On further scrutiny of

the Cash Register of District Leprosy Society which was maintained by the said UDC, there appeared huge mal practice like over writing of amount, erasing of the amount and making some interpolation on the amount of the cash register on various pages without any authentication or initials of the Chief Medical Officer of Health which amounts to defalcation of funds. It also appeared that some of the corrections in the entries in Cash Book were rectified with the initial of the then Chief Medical Officer of Health which the said Chief Medical Officer of Health denied by stating that the UDC forged his initials on the entries of the Cash Book.

3. Your petitioner further states that after summoning the Chief Medical Officer of Health, the then person in-charge of the Chief Medical Officer of Health lodged a complaint before the respondent number 5 against the then UDC which was treated as a First Information Report detailed Raiganj Police Station Case Number 258/2001 dated 04.08.2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 and as because the investigation involved allegations of corruption, the respondent number 3 under the aegis of the respondent number 4 took over the investigation of the First Information and the first thing which he did was that he arraigned the then Chief Medical Officer of Health who was the de-facto complainant as an accused person. Therefore, the person who lodged the Complaint became an accused person in his own complaint that is the Chief Medical Officer of Health acted as both the de-facto complainant and accused person in the same case which is nothing but a farce and tainted the investigation as a malpractice in the first instance. After investigation the respondent number 3 filed a Charge Sheet against the then UDC of the Chief Medical Officer of Health, the then Chief Medical Officer of Health and the petitioner of this instant writ application. Hence, the

petitioner though was not an accused person initially but later on became the accused person and the allegation in the Charge Sheet was that the petitioner being the Chartered Accountant and auditor of the Account kept by the Society in conspiracy with the then UDC of the Chief Medical Officer of Health made a contradictory Audit Report, Cash Book and Ledger Book with that as mentioned in the Cash Register of the District Leprosy Society of Uttar Dinajpur from 1995 to 1998. Excepting this allegation no whisper of any other allegation was made against the petitioner and solely based upon this report, the petitioner had to face the ignominy of a Trial which took an abnormal period of time to commence and end that is for close to twenty years the petitioner had to suffer. Finally, after recording the evidence of close to six assigned witnesses, the Judgment was passed by the Court of Additional Sessions Judge, 1<sup>st</sup> Court at Raiganj, District-Uttar Dinajpur in T.R. Case No. 2 of 2010. After the Charge Sheet was filed under Section 409 of the Indian Penal Code, 1860 which involves an act of corruption by a Public Servant, the Case was committed for disposal before the aforesaid mentioned Court by the Court of Learned Chief Judicial Magistrate, Uttar Dinajpur. In the Judgment dated 26<sup>th</sup> June, 2020, the petitioner was held to be not guilty of the said offences and he was acquitted under Section 235 (1) of the Code of Criminal Procedure, 1973 which was not appealed against by the State of West Bengal which furthermore affirms the fact that the petitioner was indeed innocent and his involvement in the above mentioned case was on the basis of a larger conspiracy in order to shield the actual perpetrators who according to the petitioner is the office of the respondent number 4 and the respondent 3 whose complicity could not be thrown out of the window.

A copy of the relevant portion of the Charge Sheet wherein allegations against the petitioner has been mentioned and the

Judgment dated 26<sup>th</sup> June, 2020 are annexed herewith and collectively marked as Annexure "P-1".

4. Your petitioner is aggrieved by the fact that he has been made a scapegoat in a case of corruption wherein there are various other stakeholders other than him. The facts on the basis of which the investigation was a sham and requires re-investigation are: Firstly, there is no whisper anywhere as to who filed the initial complaint of corruption on the basis of which the enquiry started, as per the Judgment it was mentioned that may be the respondent number 6 in the capacity of being the Chairman of the Society filed the complaint but nowhere was the complaint produced as a result of which it was nothing but a mere perception. Secondly, the then Chief Medical Officer of Health was made an accused person in a case wherein he was the de-facto complainant which is furthermore a travesty of justice and made the complaint a sham. Thirdly, implication of the petitioner in the said case was nothing but an eye wash, it is a trite that a Chartered Accountant being an independent practitioner is liable to give an opinion solely based upon the documents produced to him and it is the liability of the Management of a Society to truthfully render him all the accounts and prepare the financial statements and annual financial statements and if the same is not produced then solely the management is responsible and not the Chartered Accountant. The management includes both the respondent number 4 and the Chief Medical Officer of Health who are the Chairman and Secretary respectively. Moreover, the system of rendering of the accounts was faulty as because the book keeping was done in a Single System and not a double system (in a double system both credit and debit outflows are mentioned thereby making the procedure of auditing more transparent) as a result of which no annual financial statement could be prepared and no facts and figures of the annual

financial statement even if prepared could be confirmed from the cash register. Fourthly, the allegation of the involvement of the respondent number 4 could not be thrown out of the window as because the allegation of corruption was against the Society which was under his Chairmanship and such allegations could not remove his complicity and also the investigation or enquiry was done by the respondent number 3 which was again headed by him. Therefore, the investigation of a Society which was under the Chairmanship of the respondent number 4 was done under his direct control which again makes the investigation a farce and a perfunctory one and nestled with corruption. All these aspects were mentioned in a petition dated 8<sup>th</sup> March, 2021 filed by the petitioner for rectification of the Judgment dated 26<sup>th</sup> June, 2020 and the petitioner was furthermore shown as a UDC of the Chief Medical Officer of Health which is incorrect to the core.

5. Your petitioner states that seventhly, in the judgment dated 26<sup>th</sup> June, 2020, it was mentioned in a paragraph that the Cash Register, Inventory List, Pass Book, Copy of Treasury Challan, Copy of Treasury Challan were all seized from the office of the Anti Corruption and Vigilance Unit and not from the Office of the Chief Medical Officer of Health wherein it was ordinarily kept thereby making huge chances of tampering and contamination of the evidences at the behest of the respondent number 3 who is acting under the supervision of the respondent number 4 as a result of which the investigation could be termed as an outright false one. It is aptly clear that due to the illegal acts of the official respondents the petitioner had to suffer and there was a sure shot delay in justice as because the case was transferred in the year 2010 before the Learned Trial Court and the Case was registered way back in the year 2001 and the Charge Sheet was filed during that time itself and therefore the petitioner had to suffer for a

long period of 19 years that is from 2001 till 2020 when the final judgment of acquittal was passed by the Learned Trial Court. The petitioner is a victim of delay in justice which is against his Fundamental Right to Life as enshrined in Article 21 of the Constitution of India. In such circumstances, the petitioner had served upon the respondent numbers 1 and 2 a comprehensive representation dated 17<sup>th</sup> May, 2024 through email at about 3:03 PM and in that representation, the petitioner prayed for compensation on the grounds as stated therein which was self-explanatory in nature but the said representation was not disposed of due to which on 21<sup>st</sup> May, 2024 a reminder was served upon the respondent numbers 1 and 2 but even after a month has elapsed since the date of service of the representation upon the respondent numbers 1 and 2, the same has not been considered and disposed of till date due to which the petitioner is suffering through thick and thin and furthermore such action clearly amounts to inaction on the part of the said respondents due to which this instant writ application has been filed before This Hon'ble Court.

A copy of the petition dated 8<sup>th</sup> March, 2021, the documents relating to audit, the representation dated 17<sup>th</sup> May, 2024, proof of service through email and the reminder dated 21<sup>st</sup> May, 2024 are annexed herewith and collectively marked as "P-2".

6. Being aggrieved by and dissatisfied with the inaction on the part of the respondent authorities particularly the respondent numbers 1 and 2, your petitioner beg to move this application under Article 226 of the Constitution of India, inter alia on the following:-

## GROUNDS:

- I. For that the entire inactions of the respondent authorities (particularly the respondent numbers 1 and 2) are arbitrary and against the provisions of the Constitution of India.
- II. For that there has been violation of the Fundamental Right to life and personal liberty of the petitioner as enshrined in Article 21 of the Constitution of India as his right to live a life nestled with dignity has been violated through such inaction in order to dispose of the representation of the petitioner as well as through such delay in providing justice to him.
- III. For that within the purview of the constitutional obligation the State has the bounden duty to protect the rights of the petitioner which it has failed to protect through such inaction.
- IV. For that the representation of the petitioner dated 17<sup>th</sup> May, 2024 has not been considered and disposed of till date by the respondent numbers 1 and 2 due to which the petitioner is suffering and this furthermore is infringing his Right to Life and Personal Liberty as enshrined in Article 21 of the Constitution of India.

7. Your petitioner submits that in view of the facts and circumstances stated hereinabove an order be passed directing the Official Respondents specifically the respondent numbers 1 and 2 to consider and dispose of the representation of the petitioner dated 17<sup>th</sup> May, 2024 in accordance with law and provide the petitioner the necessary compensation due to the delay in providing justice to him.

8. The records of the case are lying with the respondents within the appellate jurisdiction of this Hon'ble Court.

9. Your petitioner further state that any further letter of demand for justice would be nothing but an empty formality.

10. The relief sought for herein, if granted will afford complete justice to the petitioner.

11. There is no other alternative or efficacious remedy available to your petitioner than to prefer this application and the relief(s) prayed for herein, if granted will give your petitioner full and complete relief.

12. On the self same facts and cause of action no other application has been filed by your petitioner before this Hon'ble Court, or any other appropriate Court.

13. This application is made *bona fide* and for the ends of justice.

In the aforesaid circumstances it is most respectfully prayed that Your Lordships may graciously be pleased to issue:-

a) A writ of or in the nature of mandamus directing the Official Respondents specifically the respondent numbers 1 and 2 to consider and dispose of the representation of the petitioner dated

17<sup>th</sup> May, 2024 in accordance with law and provide the petitioner the necessary compensation due to the delay in providing justice to him.

(b) A writ of or in the nature of certiorari directing the respondents to produce all records of the instant case before this Hon'ble Court so that the same may be perused and appropriate orders be passed so that conscionable justice may be done.

c) *Rule Nisi* in terms of prayers (a) and (b) above;

d) Costs of and incidental to this application;

e) Such further order(s), direction(s) as to this Hon'ble Court may deem fit and proper.

And for this act of kindness, your petitioner as in duty bound shall ever pray.

## AFFIDAVIT

I, Krishnapada @ Krishna Pada Sarkar, son of Late Gourpada Sarkar, aged about 67 years, by faith- Hindu, by occupation- Self Employed, permanently residing at Raiganj Tulsipara, Post Office and Police Station- Raiganj, District- Uttar Dinajpur, West Bengal, PIN-733134 do hereby solemnly affirm and say as follows:-

1. That I am the petitioner in this instant case and am well acquainted with the facts and circumstances of this case. I am competent to affirm this affidavit.

2. The statements contained in paragraphs 1 to 13 are true to my knowledge and rests are my respectful submissions before this Hon'ble Court.

Prepared in my office,

The deponent is known to me

Advocate.

Advocate.

Enrolment Number: F/828/757/2018

Solemnly affirmed before me,

On this        day of June, 2024.

## COMMISSIONER

I certify that all Annexures  
are legible.

Advocate.

DISTRICT : UTTAR DINAJPUR  
IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

W.P. A. NO.                      OF 2024

IN THE MATTER OF:  
An application under Article 226 of the  
Constitution of India.

-AND-

IN THE MATTER OF:  
Krishnapada @ Krishna Pada Sarkar,  
...Writ Petitioner.

-Versus-

The State of West Bengal & Ors.  
...Respondents.

PETITION

Ranojoy Chatterjee  
Advocate  
High Court, Calcutta  
Chamber: EE-121/2, Sector-II, Salt  
Lake, Kolkata- 700091.  
Mob: 6290415247  
Email: advranojoy@gmail.com  
Enrolment No: F/828/757/2018

DISTRICT: UTTAR DINAJPUR

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W.P. A. NO.                      OF 2024

IN THE MATTER OF:

An application under Article 226 of the  
Constitution of India.

-AND-

Subject matter relating to:

Under Group - IX, Head (Nil) of the  
Classification List under NO ACT

CAUSE TITLE

Krishnapada @ Krishna Pada Sarkar,

.....Writ Petitioner

-Versus-

The State of West Bengal & Ors.

...Respondents.

ADVOCATE ON RECORD:

Ranojoy Chatterjee  
Advocate  
High Court, Calcutta  
Chamber: EE-121/2, Sector-II, Salt Lake,  
Kolkata- 700091.  
Mob: 6290415247  
Email: advranojoy@gmail.com  
Enrolment No: F/828/757/2018

DISTRICT: UTTAR DINAJPUR

IN THE HIGH COURT AT CALCUTTA  
 CONSTITUTIONAL WRIT JURISDICTION  
 APPELLATE SIDE

W.P.A. NO.                      OF 2024

IN THE MATTER OF:

An application under Article 226 of the  
 Constitution of India.

-AND-

IN THE MATTER OF:

Krishnapada @ Krishna Pada Sarkar,

...Petitioner.

-Versus-

The State of West Bengal & Ors.

...Respondents.

INDEX

Sl. No.	Particulars	Annexure	Pages
1.	List of dates		
2.	Points of Law		
3.	Writ Petition with affidavit		
4.	Copy of the relevant portion of the Charge Sheet wherein allegations against the petitioner has been mentioned and the Judgment dated 26 <sup>th</sup> June, 2020.	"P-1"	
5.	Copy of the petition dated 8 <sup>th</sup> March, 2021, the documents relating to audit, the representation dated 17 <sup>th</sup> May, 2024, proof of service through email and the reminder dated 21 <sup>st</sup> May, 2024	"P-2"	

## LIST OF DATES

- 4<sup>th</sup> August, 2001      The First Information Report was registered.
- 26<sup>th</sup> June, 2020      The final Judgment was passed acquitting the petitioner from the case.
- 8<sup>th</sup> March, 2021      A petitioner filed a petition before the Learned Court which passed the Order for rectification of the Order passed by him.
- 17<sup>th</sup> May, 2024      A representation was served upon the respondent numbers 1 and 2 by the petitioner which has not been disposed of till date.
- 21<sup>st</sup> May, 2024      A reminder for disposing of the representation was served upon the respondent numbers 1 and 2 by the petitioner.

## POINTS OF LAW

- I. Whether the petitioner's right to life violated by the inaction of the respondent authorities?
- II. Whether the respondent numbers 1 and 2 committed inaction by not disposing of the representation of the petitioner served upon them?
- III. Whether the respondent numbers 1 and 2 can be directed to dispose of the representations of the petitioner after considering the same in accordance with law?
- IV. Whether the inaction/ non-action of the respondent authorities are otherwise bad in law?

DISTRICT: UTTAR DINAJPUR

IN THE HIGH COURT AT CALCUTTA  
 CONSTITUTIONAL WRIT JURISDICTION  
 APPELLATE SIDE

W.P.A. NO.                      OF 2024

IN THE MATTER OF:  
 Krishnapada @ Krishna Pada Sarkar

...Writ Petitioner

-Versus-

The State of West Bengal & Ors.

...Respondents.

BRIEF OF LIST OF DATES

Date	Events
4 <sup>th</sup> August, 2001	The First Information Report was registered.
26 <sup>th</sup> June, 2020	The final Judgment was passed acquitting the petitioner from the case.
8 <sup>th</sup> March, 2021	A petitioner filed a petition before the Learned Court which passed the Order for rectification of the Order passed by him.
17 <sup>th</sup> May, 2024	A representation was served upon the respondent numbers 1 and 2 by the petitioner which has not been disposed of till date.
21 <sup>st</sup> May, 2024	A reminder for disposing of the representation was served upon the respondent numbers 1 and 2 by the petitioner.

### SYNOPSIS

The case of the petitioner is that he is aggrieved by the delay in justice in T.R. Case Number 02 of 2010 which arose out of the First Information Report detailed Raiganj Police Station Case Number 258/2001 dated 04.08.2001 under Sections 467/468/471/477A/120B/420/409 of the Indian Penal Code, 1860 wherein the petitioner was not an accused person named in the First Information Report but later on he was named in the Charge Sheet on the ground that being a Chartered Accountant his audit report did not match with the cash register of the District Leprosy Society which is under the Chairmanship of the respondent number 4 but in reality he did the audit based upon the documents provided to him. The allegation against the Society was that the Chief Medical Officer of Health who was the Secretary of the said Society committed defalcation of funds given to the Society with the active help and support of the Cashier at that time who was his UDC of the then Chief Medical Officer of Health and the petitioner conspired with him even though the First Information Report was registered by the Chief Medical Officer of Health who was also arraigned as an accused person. Later on vide Order dated 26<sup>th</sup> June, 2020, the petitioner and the other accused persons were acquitted based upon benefit of doubt and therefore the petitioner had to suffer for a period of nineteen years for no fault of his and clearly he was falsely implicated in the case and justice was delayed in his case due to which he had served upon the respondent numbers 1 and 2 a comprehensive representation dated 17<sup>th</sup> May, 2024 wherein he prayed for compensation from those respondents for the delay in justice but the same was not disposed of due to which he served upon the same respondents a reminder dated 21<sup>st</sup> May, 2024 but even after a month has elapsed since the date of service of the representation, the same has not been disposed of which amounts to inaction and under such circumstances this instant writ application has been filed before This Hon'ble Court by the petitioner.

### GIST OF THE IMPUGNED OVER ACTION

The petitioner had served upon the respondent numbers 1 and 2 a comprehensive representation dated 17<sup>th</sup> May, 2024 wherein he prayed for compensation from those respondents for the delay in justice but the same was not disposed of due to which he served upon the same respondents a reminder dated 21<sup>st</sup> May, 2024 but even after a month has elapsed since the date of service of the representation, the same has not been disposed of which amounts to inaction and under such circumstances this instant writ application has been filed before This Hon'ble Court by the petitioner.