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Srikanta Chakraborty And Another vs The State Of West Bengal And Others on 15 October, 2026

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Calcutta High Court (Appellete Side)

Srikanta Chakraborty And Another vs The State Of West Bengal And Others on 15 October, 2026

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:
The Hon'ble Justice Reetobroto Kumar Mitra

WPA 28984 of 2026

Srikanta Chakraborty and another
Vs.
The State of West Bengal and others.

For the Petitioners : Mr. Anindya Lahiri,
Mr. Arkadeb Biswas,
Mr. Subhomoy Paul,
Mr. Anish Chakraborty,
Mr. Biplab Pal.

For the State : Mr. Piush Chaturvedi,
Mr. Anujit Mookherji.

Heard on : 12.10.2026, 14.10.2026,

Judgment on : 15th October 2026.

The Court:
1. The petitioners are the candidates who had applied for the

recruitment process for Constable in the Kolkata Police, initiated

by the West Bengal Recruitment Board in the year 2024.

This order has been modified by speaking to the minutes of the order
dated October 22, 2026.

2

2. Though this process of recruitment was initiated by an

Advertisement issued sometime in 2024, the petitioners have

chosen to challenge this recruitment process at this stage,

sometime in September 2026. The reason for the late challenge

has been ascribed to a change of circumstances emanating from

a judgment of this Hon'ble Court in WPO 60 of 2011 (Amal

Chandra Das Vs. State of West Bengal & Ors.).

3. By virtue of this judgment, the prevalent list of OBC-A and OBC-

B, which included various sub-castes was set aside and the vast

multitude of classification was restricted to 66 classes only.

4. All candidates belonging to OBC-A & OBC-B, depending on their

class/caste were either included as OBC candidates or were

excluded, thereby putting them in the unreserved list.

5. It is these excluded candidates who are beyond the OBC list by virtue of the said judgment, who has been given an opportunity to participate in the recruitment process as Economically Weaker Section (EWS) candidates. It is this categorization or at least the opportunity given to such excluded candidates to avail the EWS category, that has been challenged in this writ-petition.

6. Mr. Lahiri, learned senior Advocate appearing for the petitioners, has made the following submissions:

(a) The inclusion or the leave granted to such left out candidates who are termed as unreserved candidates to include themselves in the EWS category tantamounts to changing the rules of the game, post commencement of the game.

(b) By including or at least permitting such candidates to be included in the EWS category, the original EWS candidates will have to face a stiffer competition, thereby impeding their chances and the opportunity of the original EWS category candidates to have any chance of in the recruitment process.

(c) EWS categorization is not by birth, such as the Scheduled Castes and Scheduled Tribes candidates. Their status may change on a yearly basis, depending on their income and asset declaration, on account whereof the excluded candidates from the OBC-A and OBC-B list cannot be permitted to take advantage of reservation under the EWS category. The advertisement in Clause 3(b) clearly mentioned the following:

> "3. RESERVATION OF VACANCIES:
> (a).....
> (b) In terms of Memorandum NO. 9659-BCW/MR-52/2019 dated 18.05.2023 of Backward Classes Welfare Department, Govt. of West Bengal, the candidates from Economically Weaker Sections (EWSs), if shortlisted for interview must produce INCOME and ASSET CERTIFICATE issued by the competent authority for the Financial Year 2023-2024 or onwards during checking of testimonials on the date of Interview. The date of issuance of such certificate must be between

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 2

ASSET CERTIFICATE issued by the competent authority for the Financial Year 2023-2024 or onwards during checking of testimonials on the date of Interview. The date of issuance of such certificate must be between 01.04.2023 and 31.03.2024. Candidates seeking reservation under EWS category must produce that certificate as per specified format (Annexure-C) as enclosed herewith. Non production of valid INCOME and ASSET CERTIFICATE warrants ineligibility of a candidate under EWS category. However, he/she will be considered under UR category at the time of final selection subject to fulfillment of selection criteria. INCOME and ASSET CERTIFICATE issued from states other than West Bengal shall not be considered and such candidate will be treated under unreserved category."

(d) The advertisement clearly states that the EWS certificate should be for the financial year 2023-24 or onwards during checking of testimonials on the date of interview and that the date of issuance of such certificate must be between 1st April 2023 and 31st March 2024. Thus, the excluded candidates from the OBC-A & OBC-B list cannot under any circumstances fall within the zone of consideration as EWS candidates, as, EWS certificate has to be for the financial year 2023-24 issued between 1st April 2023 and 31st March 2024. On this date, the excluded candidates were all OBC-A and OBC-B. Thus, these candidates who have been given this leverage to participate in the recruitment process under the EWS category sometime in 2026 cannot fulfill the afore-stated criteria and must necessarily fail.

This order has been modified by speaking to the minutes of the order dated October 22, 2026.

(e) Alternatively, if their candidatures under the EWS category is to be considered, these dates have to be altered, thereby resulting in a clear alteration of the rules of the game. This is impermissible.

(f) According to him, relying on the Office Memo No. 325-PAR(AR)/3P-1/2019 dated 9th July 2019, the eligibility criteria as contained in clause 5 thereof and particularly 5(i) disables a person under the OBC category along with other reserved categories to be treated as an EWS category candidate.

(g) The Office Memo No. 36039/1/2019-Estt (Res) dated 31st January 2019 also clarifies under clause 5 that while treating reservations for EWS in direct recruitment in civil

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 3

posts and services in the Government of India particularly, in clause 5.3 thereof, the crucial date has been defined as the date for submitting income and asset certificate by the candidate as the closing date for receipt of application for the post, except in cases where the crucial date is fixed otherwise. On the basis of this, the crucial date, according to him, is between 1st April 2023 and 31st March 2024.

(h) He has also placed reliance on the published FAQ (Frequently Asked Question) dated September 19, 2022,

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where the crucial date and the disclosure thereof have been defined in answer to question 21.

(i) He has also relied upon the notice of 14th September 2026 bearing number WBPRB/NOTICE-2026/10 (CONS._LC-KP-24). According to him, this notice is a device by which the rules of the game have been tweaked after the game has commenced.

(j) He has placed reliance on the following decisions: (1) (2024) 2 SCC 605 (Union Public Service Commission vs. Gaurav Singh and others), (2) 2025 SCC OnLine SC 757 (Sakshi Arha v. Rajasthan High Court and Others) and (3) MAT 1320 of 2026 (Shreyasi Dhang vs. The State of West Bengal and Ors.), decided on 12th August 2026.

7. Mr. Chaturvedi, learned senior advocate appearing for the State respondents, has made the following submissions:

i. He has filed a report pursuant to the direction of this Court which is kept on record. From the report it appears that several candidates belonging to the erstwhile OBC-A and OBC-B category have changed their classification/category to EWS.

ii. A further number of 1251 candidates including both male and female aspirants have also opted for the EWS category. These candidates in terms of the report belong to the unreserved category.

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iii. According to him, the candidates mentioned in paragraph 1 of

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 4

the report are those who are excluded from the entire list of candidates by virtue of the judgment in Amal Chandra Das (supra). Hence, they were permitted to exercise the option and opted for EWS category.

iv. The candidates mentioned in paragraph 2 of the report are those who belong to the unreserved category but opted for the EWS category after the second window for category up-dation. The second window remained operative from 14th September 2026 till 21st September 2026 and was thereafter extended till 26th September 2026.

v. He further submits that the notice for recruitment of 2024 (which has been set out hereinbefore) does not limit the credentials of an EWS candidate to any particular year or for the financial year 2023-24. This, since, the timelines have been enlarged in the advertisement itself as financial year 2023-24 "or onwards". According to him, this phrase "or onwards" means and indeed refers to an extended timeline, on account whereof the timeline for the relevant year cannot be given a restrictive interpretation to mean 2023-24 only.

vi. He has further indicated that the timeline of issuance of certificate between 1st April 2023 and 31st March 2024 cannot be construed as a crucial date and is indeed nothing but an

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example relating to financial year 2023-2024. This is obvious as this would completely disable a valid or workable interpretation, in line with the phrase "or onwards". In other words, if the financial year was 2023-24 "or onwards", the same would also relate to financial years 2024-25 and 2025-2026. For these subsequent years, the timeline between 1st April 2023 and 31st March 2024 would render a rather redundant interpretation. This time to obtain the EWS certificate as given is merely an example relatable to the given financial year 2023-24.

vii. He has also placed reliance on clause 4 note 8 (bullet note) at page 24 of the writ petition to demonstrate that this phrase "onwards" was not a mistake or an indiscriminate usage by the authorities. This bullet point also specifies that the income and

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 5

asset certificate has to be for the year 2023-24 or onwards.

viii. He has also placed reliance on a notice of August 12, 2026 at page 51 of the writ petition whereby the notification number 945 BCW/MR-23/2026 dated 18th May 2026, has been issued granting leave to the candidates belonging to OBC category have to produce particular certificates, which are specified and are stipulated.

ix. He has also placed reliance on a decision of a Coordinate Bench of this Hon'ble Court in WPA 2877 of 2026 (Sudipta

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Chakraborty and others vs. The State of West Bengal & Ors.) where an identical clause was challenged in the West Bengal Police Recruitment Board. It did not find favor with the learned Judge and was dismissed holding that the EWS certificates issued for the financial year 2022-23 till the date of interview in the year 2026 has to be taken as a valid and benefit of reservation ought to be given to such candidates who produced such certificate.

8. Mr. Chaturvedi has declined to file any affidavit-in-opposition, as the same is not required. Accordingly, since the matter revolves around on point of law and the facts are not in dispute, he has declined to file an affidavit. However, the report filed by the State is kept on record.

9. I have heard the learned Advocates for the parties and considered the documents and decisions relied upon by them.

10. The petitioners are aggrieved that the authority has extended the benefit of reservation to the candidates who are not entitled to such benefit on the date of commencement of the recruitment process.

11. This is the only issue which has been raised as of other issues are in aid of proving that these candidates who have subsequently benefited from the EWS categorization were not thereby entitled on the date of the publication of the advertisement of the

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recruitment notice. To understand this issue, it is absolutely imperative that a decision of the Hon'ble Division Bench and the manner in which it has been challenged and thereafter withdrawn

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 6

is enumerated.

12. The government decision to include various sub-castes and sub-categories into the OBC list, thereby expanding and enlarging the list to OBC-A and OBC-B was challenged before this Court by way of a writ petition, which was finally allowed.

13. By this decision, several of the sub-categories and sub-castes, which have been classified as OBC A and OBC B were set aside and 66 categories were classified as OBC candidates. Thus, all candidates purporting to fall within the classification of OBC A and OBC B were removed from such classification or rather the classification itself (OBC A and OBC B) was removed. Thus, there were to be only OBC candidates. This decision was rendered sometime in May 2024.

14. Without getting into the intricacies of the challenge, the challenge itself before the Hon'ble Supreme Court in India was withdrawn sometime in May 2026, on account whereof the decision in Amal Chandra Das (supra) attained finality.

15. A question therefore arose as to what would be the status of those persons who had participated in the recruitment process, which commenced just prior to the judgment in Amal Chandra Das

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(supra) in the ongoing process. The persons who had participated as OBC A and OBC B candidates would have to exercise an option to become OBC candidates if their respective class were included in the list of 66 classes of OBC or if they were excluded from that list, they would be considered as unreserved category.

16. To facilitate this process, the State Government provided a window. This window was given to these excluded candidates to afford themselves into the EWS category upon fulfillment of all other eligibility criteria. If they failed, they would be considered as unreserved candidates.

17. It is true that this would tantamount to changing the rules of the game, if the advertisement had specified a crucial date for obtaining the income and asset certificate from the competent authority or a crucial timeline for which the income and asset certificate would be applicable.

18. None of these dates are fixed. The advertisement itself says that

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 7

the income and asset certificate to be issued by the competent authority would be for the financial year 2023-24 "or onwards". Onwards in the dictionary parlance would mean a period beyond the period indicated. The period indicated herein, 2023-24, and onwards would mean any time thereafter till it is specified. The second date which is the time for obtaining such certificate on 1st April 2023 and 31st March 2024 is also not a fixed timeline and

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cannot be construed as a crucial date, as the same has to be read in consonance with the phrase "or onwards". If onwards were to be construed as any time after the specified financial year, the given timeline to obtain the certificate between 1st April 2023 to 31st March 2024, would be absolutely redundant. This is merely an indicator.

19. This would also stand to reason as the timeline could not have been specified, in view of the fact that the recruitment process which commenced sometime in 2024 is still in progress. The interview for the candidates took place in 2026. Thus, to limit the financial credentials of an EWS category relating back to the year 2023-2024 would be a complete non-starter, as the present eligibility is to be considered for recruitment in 2026. It is precisely for this reason that the window had been kept open in the advertisement itself. Thus, by permitting the excluded candidates of the OBC A and OBC B list to participate as EWS candidates, the rules of the game have not in any manner been altered. In fact, on the contrary, if the State or the Board were to say that these timelines were fixed, in spite of the phrase "or onwards", that would result in change of the rules of the game.

20. The submission of the petitioners that the petitioners are being put to more restricted terms as the competition of the same

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number of posts will increase, is clearly not a ground to deny the eligible candidates for competing in the recruitment process.

21. Of course, without in any manner deterring or disabling the principles of equity and fairplay in such process. The candidates

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 8

who were excluded from the OBC A and OBC B list as a result of the decision of this Hon'ble Court, which occurred after the recruitment process had commenced and these candidates all participated as OBC A and OBC B, as they were included therein. Though the subsequent change cannot be a ground to afford any further opportunities to such candidates, in this particular case, there is no additional or convoluted opportunity which has been granted to this person. These persons have merely been given an opportunity to produce the requisite certificate pronouncing them as EWS candidates, upon fulfilling all other eligibility criteria. It is not as if by merely producing the EWS certificates, these candidates would automatically get appointment or that the candidates like the petitioners or similarly situated would be denied their opportunity of recruitment.

22. The candidates in the unreserved category who have also participated as EWS subsequently have also been given the opportunity, as enshrined in the recruitment notice/advertisement published. It cannot be said that these

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persons were given an additional or any extra leverage beyond the terms of the advertisement.

23. If the statement of the petitioners is to be accepted, then persons in the unreserved category would also feel deprived, as the candidates who have been excluded from the list of OBC-A and OBC-B would be treated as unreserved candidates. In that event, these candidates would be left with no opportunity to participate in the recruitment process at all. This interpretation cannot be given.

24. The petitioners had the right to challenge the recruitment notice on the ground that no fixed date had been provided as the "crucial date". The petitioners have chosen for more than two years not to challenge such advertisement. Having in fact participated in the process without any protest or demur, they cannot at this belated stage challenge the same on the ground of the "commencement of the process" or "the crucial date" not being fixed, or not being to their liking.

Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 9

25. The decision in MAT 1320 of 2026 relates to the OBC certificates and the treatment to be meted out to such persons as general category candidates. This decision does not relate to any EWS candidate or the excluded candidates being treated as such.

26. In the decision of Sakshi Arha (supra) it refers to the creamy and non-creamy layers and their categorization which was quite

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unconnected with the facts of this case and is therefore of no application.

27. In the decision of Gaurav Singh and others (supra), the question of income and asset certificate and the date of such application has been construed as the financial year prior to the year of application and the closing date for receipt of applications for the post, except in cases where a different crucial date was fixed. It is precisely the case here, as a date has been fixed by the authorities, which, however, is not rigid. Such date has been kept open-ended as will appear from the phrase "or onwards".

28. The decision relied upon by the respondent of Sudipta Chakraborty and others (supra) is clear that the crucial date cannot be taken as the last date of filing application form for recruitment. It is clear that in this case as well the expression except in cases where crucial date is fixed otherwise will have to be construed in accordance with the recruitment notice.

29. The recruitment notice herein is clear and unequivocal that there is no rigid crucial date.

30. This court was unable to find any clause requiring an uploading or production of EWS certificates prior to the date of interview. In fact, the recruitment notice itself (clause 3(b)) specified that the checking of testimonials would be on the date of the interview.

Thus, if the requisite certificates were produced and placed for

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investigation on the date of interview, the stipulations of the recruitment notice is sufficiently complied.

31. The petitioners had participated in the process and had never questioned this issue of presenting testimonials on the date of the

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interview. Thus, the petitioners at this belated stage cannot seek to challenge the same having participated therein that the crucial date should be construed as a prior date and not the date of interview.

32. In view of the aforesaid discussions and deliberations, the following conclusions are inevitable:

A. All EWS certificates issued for the financial year 2023-2024, till the date of interview has to be taken as valid and the benefit of reservation has to be given to such candidates who present such certificates, as long as they are otherwise eligible.

B. The candidates who have been given an opportunity to present EWS certificates, bereft of the fact of their earlier classification or categorization, have to satisfy the requirement of acceptable and valid credentials as on the date of interview.

C. Mere participation in a process does not give the petitioners any right to challenge or question the same, having once participated in such process.

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D. Once the petitioners had participated in the recruitment process without any protest or demur, they cannot question the same.

E. The petitioners were aware of these conditions when they participated in the same in 2024 and have done so without questioning the process and were thereby estopped from contending to the contrary.

33. In view of the afore-stated findings and conclusions, the writ-petition fails and is accordingly dismissed.

34. There shall, however, no order as to costs.

35. Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Reetobroto Kumar Mitra, J.)

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Archived court-text mirror print of https://indiankanoon.org/doc/79652741/ — not an official or certified court PDF. Page 11