

T.S. - 1698/2026

CNR No. – WBSP05-003773-2026

Present: - Uma Banerjee (Singha Roy)

J.O. Code - WB00908

Order Dated:- 14.10.2026

Record is taken up this day for hearing of ad-interim injunction petition.

Heard the learned Advocate appearing for the petitioner/plaintiff.

Perused the application for temporary injunction, the affidavit in support thereof and the documents annexed thereto.

Perused the note of Sheristader that there is no caveat filed against the suit schedule property.

The plaint is filed along with an application under Order XXXIX Rules 1 and 2 read with Section 151 of the Code of Civil Procedure, 1908, supported by an affidavit and prays for ad interim order of temporary injunction.

Plaintiff has made out case that he is an Officer of the Indian Administrative Service of 1990 batch having 36 years of service in West Bengal Cadre and presently he is the Chief Secretary of the Government of West Bengal. He held the office of Chief Electoral Officer under Government of West Bengal from 03.04.2025 to 11.05.2026 and was working under superintendence, direction and control of the Election Commission of India.

The defendant is a sitting member of the Lok Sabha from Krishnanagar Parliamentary Constituency who maintains a public account on the social media platform 'X' and bears a large number of followers. One of her addresses is at Britannia Court, 32B, New Road, Alipore is within jurisdiction of this Court and the plaintiff also resides at Alipore Park Place which is within jurisdiction of this Court. The Election Commission of India directed a Special Intensive Revision (SIR) of the Electoral rolls in West Bengal. The plaintiff submits that under that statutory scheme the Electoral roll of each constituency is prepared and revised by its Electoral Registration Officer who decides

about inclusion or deletion of name after due process against which Appeal lies before an Officer of equal rank of District Magistrate and lastly to the Chief Electoral Officer. The plaintiff submits that the Chief Electoral Officer has no power to delete or include any name on his own.

On 03.10.2026 at 5.43 pm the defendant published a post mentioned in the plaint from her 'X' account carrying plaintiff's photograph alongside that of another officer against which plaintiff raised objection which reached to the knowledge of defendant. Subsequently, on 06.10.2026 the defendant published another post from the same account carrying photograph and full name of the plaintiff which is mentioned in para 11 of the plaint. The plaintiff sent legal Notice on 09.10.2026 by e-mail through his Advocate asking her to delete the posts, withdraw the allegations, publish an unconditional apology, stop further publication, preserve and disclose the material, if any on which she relied but after expiry of the time frame of 24 hours the defendant did not act accordingly. Further, the defendant published two other posts addressing the plaintiff by name which the Ld. Advocate for the plaintiff shows in Annexure B. The plaintiff pleads that the first post dated 09.10.2026 had been viewed more than 74,000 times, reposted more than 2100 times and liked more than 8,100 times. The second post was viewed more than 22,000 times. The plaintiff specifically submits that he never deleted name of any voter and there is no FIR /inquiry /report of any Court /finding of any authority exists against him in connection with SIR. The plaintiff submits that he cannot answer the defendant in public forum as he is bound by service rules.

Ld. Advocate for the plaintiff submits that the posts are statements of facts and not opinion, he added that the allegation is absolutely false and the defendant has acted with malice. The defendant disclosed no material and answered the Notice with ridicule.

Order XXXIX Rule III CPC requires the Court to direct notice upon other side before granting an injunction. The only exception is that where the Court is of opinion that the object of granting injunction would

be defeated by delay. Ld. Advocate for the plaintiff has pointed out the decisions of Hon'ble Court reported in ***Shiv Kumar Chadha V/s. Municipal Corporation of Delhi (1993) 3 SCC 161*** that at the time of passing ex parte injunction recording of reason is mandatory to show why the object of the injunction would be defeated if notice were given first. He has further pointed out the principle laid down in ***Morgan Stanley Mutual Fund V/s. Kartick Das (1994) 4 SCC 225*** (para 36) to satisfy Court regarding the considerations of Hon'ble Apex Court that govern ex parte injunction. Ld. Advocate has further referred ***Dalpat Kumar V/s. Prahlad Singh (1992) 1 SCC 719*** to draw the three main considerations for granting ad interim injunction. He added that only prima facie case is not sufficient but all three conditions must be satisfied and referred ***Gujarat Bottling Co. Ltd. V/s. Coca Cola Co. (1995) 5 SCC 545*** and pointed out that the relief is discretionary and equitable and that the conduct of the parties is relevant. He referred ***Dorab Cawasji Warden V/s. Coomi Sorab Warden (1990) 2 SCC 117*** and submitted that where the plaintiff has a strong case for trial of a higher standard than a prima facie case it is necessary to prevent irreparable or serious injury which normally cannot be compensated in money. He added ***Deoraj V/s. State of Maharashtra (2004) 4 SCC 697*** pointing out that interim relief which resembles final relief may be granted where the Court is fully convinced that refusing it would cause irreparable injury.

Ld. Advocate for the plaintiff has pointed out that in a suit for defamation, the Court must apply a stricter standard. In *Bloomberg Television Production Services India Pvt. Ltd. v. Zee Entertainment Enterprises Ltd.*, 2024 INSC 255 (paras 6 to 10), the Supreme Court, borrowing from *Bonnard v. Perryman*, [1891] 2 Ch 269, held that courts must tread cautiously before granting a pre-trial injunction against publication. It held that an injunction, particularly an ex parte injunction, should not be granted without establishing that the content is "malicious" or "palpably false", and that ex parte injunctions should be granted only in exceptional cases where the defence advanced "would undoubtedly

fail at trial". It also cautioned against suits used to silence public participation. In **Anil Kaushik v. Sourabh Khemani, FMAT 220 of 2026**, a Division Bench of the Hon'ble Calcutta High Court, which binds this Court, held that an interim injunction in a defamation suit cannot ordinarily be granted unless the defence of justification is certain to fail. It also held that a restraint which is vague or blanket in nature cannot stand.

At the same time, the right to reputation is an integral part of the right to life with dignity under Article 21 of the Constitution: In **R. Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632**, the Supreme Court held that the remedy of a public official "is after the publication". A public official may sue for defamation concerning his official conduct where the publication was made with reckless disregard for the truth, and a defendant whose publication is false and actuated by malice has no defence. In **Mahua Moitra v. Nishikant Dubey, 2024 LiveLaw (Del) 256**, the Hon'ble Delhi High Court observed that courts must come down heavily on defamatory statements made with reckless disregard for the truth. In **Soumendra Kumar Biswas v. Sheshadri Goswami, FMAT 72 of 2023**, decided on 18.10.2023 in an appeal from this very court centre, a Division Bench of the Hon'ble Calcutta High Court held that the right to free speech, though fundamental, is not inviolable. It held that false and unsubstantiated allegations circulated through the internet can be restrained, and it granted an ad-interim injunction against their publication in physical or electronic form.

Ld. Advocate for the plaintiff has submitted these points in support of prayer of plaintiff to pass an order of ad interim injunction restraining the defendant.

Decision

Heard the Ld. Advocate for the plaintiff.

Perused the plaint, temporary injunction petition and the documents filed by the plaintiff. I have perused the decisions of Hon'ble Courts as referred by the Ld. Advocate for the plaintiff. Now, let me find

how far the plaintiff has been successful to bring prima facie case, balance of convenience and inconvenience, irreparable loss and injury and urgency in his favour.

It appears that the first post bears the plaintiff's photograph with the words 'Manoj Uncle' and connects him with the SIR process in Bengal and the second post names him in full with his former designation. The posts made after the Notice address him by name. The term 'Vote Chor' accuses the plaintiff as of an Electoral crime like thief of votes. 'Committed every illegality under the planet' accuses him of breaking the Law. 'Singularly responsible for illegal disenfranchise lakhs of valid Bengali voters' attributes a specific unlawful act to him alone. These comments are not based on a policy or decision but these are statements of facts each capable of being proved true or false. This Court finds prima facie that these are statements of fact. The plaintiff has submitted that he has no statutory right to include or delete a name in the Electoral roll. So, alleging the plaintiff 'singularly' disenfranchise lakhs of voters is contrary to the Law under which the plaintiff work as CEO. The defendant did not produce any reference of FIR/Charge, inquiry/report or finding of any Court or authority against the plaintiff in support of her statement in public domain. On being asked no such document is produced by the defendant. Considering these points this Court finds that prima facie the allegation put against plaintiff by the defendant in social media platform is without foundation. In the second post there is opening words 'Its not defamation when truth is spoken' this draws attention that defendant was aware of the legal consequences and went on proceeding but in spite of receiving legal Notice she did not answer it rather she published it with communication address of the Ld. Advocate of the plaintiff and commented with mockery that the plaintiff could go to jail. This is also a point drawing prima facie case that this conduct shows reckless disregard for the truth and a strong proof of malice. The decision referred by the Ld. Advocate for the plaintiff in Bloomberg Television

Production Services India Pvt. Ltd. v. Zee Entertainment Enterprises Ltd., 2024 INSC 255 (paras 7 to 9) is the guiding principle here.

A defense of truth must rest on material. The defendant was specifically called upon, before the suit, to preserve and disclose the material on which she relied but she disclosed none. Her subsequent act was ridicule by saying in social media that “Its not defamation when truth is spoken” is not a plea of justification. This is not a case like ***Mohuya Moitra V/s. Nishikant Dubey*** where the allegations were supported by a report of Parliamentary Committee and plaintiff’s own statements and an Affidavit. It is not a case like Anil Kaushik which is like a disputed commercial fact. Here, the central allegation runs against the statute itself and there is nothing at all on the other side. On non-disclosure of material, the defense of truth would undoubtedly fail. This Court holds that this is one of the exceptional cases contemplated in *Bloomberg Television Production Services India Pvt. Ltd. v. Zee Entertainment Enterprises Ltd.*, 2024 INSC 255.

The Court has considered this aspect with care, since the defendant is a sitting Member of Parliament and the SIR is a matter of public interest the suit is not an attempt to stifle public debate and the plaintiff sues here as an individual to protect his personal reputation. He expressly accepts that his official conduct is open to fair criticism and seeks no restraint on any debate about the SIR. The posts were made on a social media platform and not in Parliament. As such Article 105 (2) of the Constitution gives no protection. This is also not a prior restraint as the posts are already published and the plaintiff seeks post publication remedy which the decision in *Rajagopal* case expressly preserves.

For the above reasons the plaintiff has made out not only a prima facie case but a strong case for trial.

This is further apparent that there is irreparable loss and injury faced by the plaintiff as the viewership number is increasing burgeoningly as it attracts public attention for a matter by accusation of theft of vote by a sitting Member of Parliament against the senior most

Civil Servant of the State and the plaintiff cannot answer the defendant in public forum due to his Service Conduct Rules. No award of damages at the end of the trial can undo that injury.

The balance of convenience and inconvenience lies fully with the plaintiff. The order of injunction does not snatch anything legitimate right from the defendant and she will remain free to criticize everything related to any official decision as to SIR inside and outside Parliament without maligning plaintiff personally.

The Ld. Advocate for the plaintiff has rightly referred the three conditions in ***Dorab Cawasji Warden V/s. Coomi Sorab Warden (1990) 2 SCC 117*** case and the three conditions are fulfilling here. A prohibitory order alone would leave the existing posts online and the injury would continue every hour. If the defendant succeeds ultimately in trial she will be free to publish her words again and if the plaintiff succeeds nothing can make the public unread what they have already read.

This Court observes that the injury is continuing and fast. On the material on record, the posts reach tens of thousands of leaders within hours. The defendant did not show her material though she was asked to produce the same. The defendant's response to the Notice was to publish it and to mock it and also to add fresh allegations to go to jail. Serving Notice only as per procedure of Order 39 Rule 3 CPC will enhance further viewership and further publication before the hearing. The plaintiff has moved promptly. The first post was made on 03.10.2026, the second post was made on 06.10.2026, the Notice was sent on 09.10.2026 and expired on 10.10.2026. The suit is filed on this day i.e. 14.10.2026.

The considerations in the decision of Morgan Stanley are each satisfied. The plaintiff moved as early as possible. The plaintiff disclosed that the posts concerned is about official tenure and that the SIR is a matter of public debate which shows good faith of the plaintiff to the Law and procedure. There is sufficient proof of strong prima facie case, balance of convenience and inconvenience, irreparable loss and injury in favour of plaintiff.

After completion of hearing of the Ld. Advocate on behalf of plaintiff an Advocate disclosing his name as Souren Chandra Mondal enters into Court room and submits that he is about to file undertaking to submit vakalatnama on behalf of defendant. He has submitted a petition praying time along with photocopy of authorization to represent defendant and a copy of e-mail of the defendant. Copies are attached. It appears that Vakalatnama is not submitted and the defendant has not filed any Caveat under section 148A CPC. This Court observes that this gesture is not like appearance in a Civil suit as per procedure under Order III Rule IV CPC. After completion of the hearing of Ld. Advocate for the plaintiff the defendant cannot be allowed to take part in hearing where he is not properly represented by filing vakalatnama and he is not a Caveator. The adjournment prayer is rejected as the same is not prayed following the procedure where the mode of representation is not approved by Law. A caveat under section 148A (1) CPC and Section 148(3) CPC gives a right to be heard but not a right to an adjournment which is decided in ***Smt. Kalpana Rani Dutta V/s. Concorde Cooperative Housing Society Ltd.*** C.O. number 1776 of 2010 decided on 17.09.2010, though the defendant is not a Caveator here. This Court further observes that a letter is not an appearance known to Law following ***Smt. Saraswati V/s. Tulsi Ram Seth AIR 1971 Delhi 110*** which explained the difference between ‘acting’ and ‘pleading’ and the decision points out that there is necessity of written appointment which the defendant lacks today.

Considering such facts and circumstances, this Court observes that there is necessity to pass ad interim order of temporary injunction where the purpose of serving Notice will give a chance to be heard to the defendant and before this puja vacation there is strong need to pass ad interim order of temporary injunction as otherwise the plaintiff will suffer irreparable loss and injury as is already discussed.

Hence, it is,

ORDERED

In the result, the prayer for an ex parte ad-interim injunction is allowed. The following directions are passed:-

(1) that the Defendant, her agents, servants and all persons acting on her behalf are restrained from newly publishing, posting, reposting, sharing and/or repeating, in any form and on any platform, any defamatory statement against the Plaintiff, including any statement in connection with the First Post dated 03.10.2026 and the Second Post dated 06.10.2026, or any statement to the effect that the Plaintiff is a "Vote Chor", that he "committed every illegality", that he was "singularly responsible" for illegally disenfranchising voters, or that he acted at the behest of a "maalik"; provided that nothing in this order shall restrain fair criticism of the SIR or of any official decision,

(ii) that the Defendant shall delete the First Post dated 03.10.2026 and the Second Post dated 06.10.2026 from her X account "@MahuaMoitra" within 24 hours of receiving of this order, including receipt by e-mail;

(iii) that, if the Defendant fails to comply with direction (ii), the Plaintiff shall be at liberty to communicate this order to X Corp. and its Grievance Officer for action in accordance with Rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, read with Section 79(3)(b) of the Information Technology Act, 2000,

(iv) that the Plaintiff shall comply with the proviso to Order XXXIX Rule 3 by sending copies of the application, the affidavit, the plaint and the documents to the Defendant by registered post with A/D or speed post at all three addresses in the cause title and that should be done within 24 hours of passing of this order.

(v) that notice be issued upon the Defendant to show cause why the ad-interim order shall not continue until the disposal of the application.

The Defendant may file her written objection, with all the material on which she relies

(vi) that the Defendant is at liberty to apply under Order XXXIX Rule 4 for discharge, variation or setting aside of this order

(vii) that this ad-interim order shall remain in force until further orders, whichever is earlier

(viii) that the observations in this order are based on prima facie finding and are made only for the purpose of this application, and shall not bind the Court at the hearing of the application or at the trial.

This order shall remain in force till **05.01.2027**. The Plaintiff shall serve copies of the plaint, application with annexures and this order upon the Defendants and file affidavit of service.

Fix **05.01.2027** for S.R./A.D., service return, written objection and hearing of the application for temporary injunction.

Dict. & corrected

Sd/-

**Civil Judge Senior Division
1st Court, Alipore, South 24 Parganas**