

Indrajeet Dey

Advocate
Ch 43/2B Suhasini Ganguly Sarani
Kolkata 700025
Ph 9804377236

22/11/19

To,

1. The Learned Government Pleader having his office at High Court at Calcutta
2. The Registrar, West Bengal University of Health Sciences, The DD Block, Sector I, Salt Lake City, West Bengal 700064, service through its Register.
3. The Vice Chancellor, West Bengal University of Health Sciences, The DD Block, Sector I, Salt Lake City, West Bengal 700064, service through its Register.

In Re - WP 21646(W) of 2019

Alia Sk

Vs

State of West Bengal and ors

Sir,

Please take note that, said writ is to be filed before the Hon'ble High Court at Calcutta and the matter is to appear before His Lordship The Hon'ble Justice Tapabrata Chakraborty at Court No. 15 , on November 27, 2019



Indrajeet Dey

Advocate

District- Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE JURISDICTION

IN THE MATTER OF:

W.P No. 21646 (W) of 2019

Subject matter relating to ^{College Education} Residuary falling

② under Group ~~IX~~_{II} of the Classification List.

AND

IN THE MATTER OF:

An Application under Article 226 of the
Constitution of India

AND

IN THE MATTER OF:

Alia Sk

.....Petitioner

Versus

State of West Bengal & Ors

.....Respondents


Advocate on Record :

INDRAJEET DEY

ADVOCATE

HIGH COURT AT CALCUTTA

14C/1 KAPALITOLA LANE, KOLKATA 700012

Ch-43/2B, Suhasini Ganguly Sarani,

Kolkata 700025

Ph- 9804377236

District- Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P. No. (W) of 2019

AND

IN THE MATTER OF:

Alia Sk

...Petitioner

Versus

State of West Bengal and Ors

....Respondents

INDEX

Sl. No.	Document	Annexure	Page Nos.
1.	List of Dates		
2.	Points of law		
3.	Application		
4.	Affidavit		1-11
5.	Affidavit for gender	P1	— 12, 13
6.	MSc Marksheet	P2	— 14, 15
7.	Notification	P3	— 16-22

District- Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P. No. (W) of 2019

AND

IN THE MATTER OF:

Alia Sk

.....Petitioner

Versus

State of West Bengal and ors

.....Respondents

List Of Dates

Sl No.	Dates.	Particulars.
1 .	December 2, 2019	The last dates for filing up form

District- Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELETE JURISDICTION

IN THE MATTER OF:

W.P. No. (W) of 2019

AND

IN THE MATTER OF:

Alia Sk

.....Petitioner

Versus

State of West Bengal and ors

.....Respondents

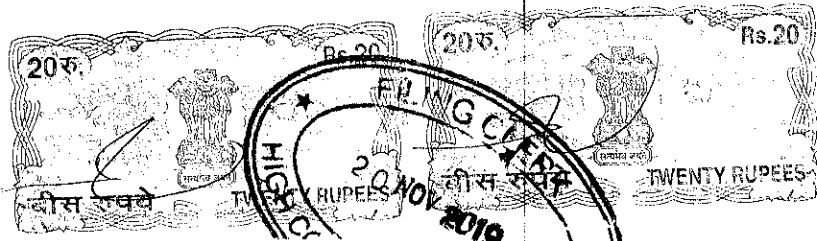
POINTS OF LAW

- I. WHETHER the authority concerned acted in a manner which was contrary to the procedure established by law;
- II. WHETHER the authority concerned in denying to discharge their duty and have acted in a manner which abrogated the most cardinal principle of Natural Justice;
- III. WHETHER the acts and deeds of the authority concerned indicate a biased and partisan approach of the respondents in dealing with the case of the petitioner;

IV. WHETHER your petitioner is greatly prejudiced by the inaction on the part of the police and the state.

V. WHETHER the inaction has caused / is causing an irreparable loss and loss of reputation of the petitioner.

DISTRICT: Kolkata



In The High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

WP. No. 21646 (W) of 2019

In the Matter of:

An application under Article 226 of the
Constitution of India;

-And-

In the Matter of:

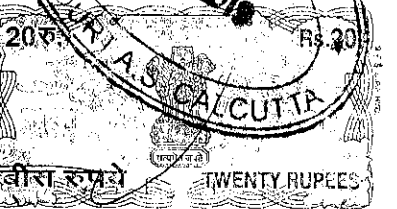
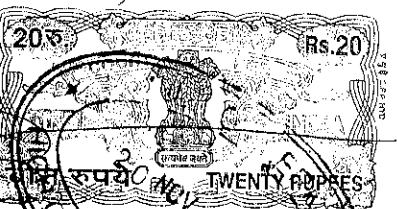
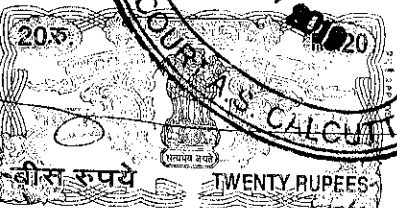
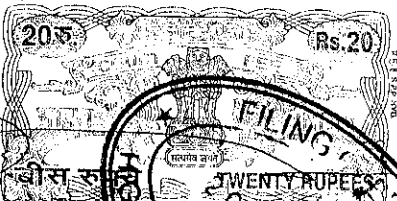
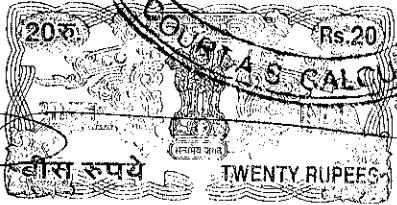
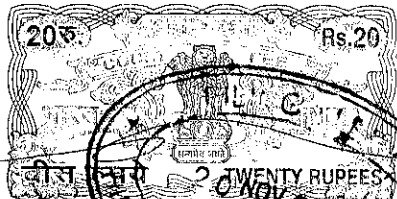
Mx Alia Sk being a Transgender, fathers name Sk
Mahalam, residing at Beledanga South,
Maheshtala, South 24 Parganas, PIN - 700141

-Vs-

1. The State Of West Bengal service through
Chief Secretary, to the Government of West

*Through
Indrajit Das
Adv*

494086



Bengal, having his office at Nabanna, 325 Sarat Chatterjee Road, Shibpur, Howrah – 711 102;

2. The Secretary, Department of Higher Education, Government of West Bengal, Bikash Bhawan, 6th Floor East Block, Kolkata 700091;


3. The West Bengal University of Health Sciences, The DD Block, Sector I, Salt Lake City, West Bengal 700064, service through its Register.

4. The Registrar, The West Bengal University of Health Sciences, The DD Block, Sector I, Salt Lake City, West Bengal 700064.

5. The Vice Chancellor, The West Bengal University of Health Sciences, The DD Block, Sector I, Salt Lake City, West Bengal 700064.

6. Health & Family Welfare Department, Govt of West Bengal Swasthya Bhawan, service through the Additional Chief Secretary having his office at GN-29, Sector-V, Salt Lake, Kolkata - 700 091;

.....Opposite Parties/ Respondents



To

The Hon'ble Thottathil B. Radhakrishnan, Chief Justice And His Companion Justices of
the said Hon'ble Court

The humble petition on behalf of the Petitioner

above named

Most Respectfully Sheweth:

1. That your petitioner is a citizen of India and is a permanent resident of the address given in the cause title above, where he resides with his other family members.
2. That your petitioner was born as Sk Alamgir and subsequently your petitioner realized that she was suffering from Gender Dysphoria, thereafter she decided to change her identity and had duly sworn an affidavit before the Learned Judicial Magistrates Court at Alipore, wherein she declared herself to a Transgender Female.
A copy of the Affidavit is annexed herewith marked as Annexure P1.
3. That your petitioner had completed her Masters in Psychology termed as the M.Sc. in Psychology from the West Bengal State University with 1st Division Marks. A copy of the Mark sheet of the same is annexed as Annexure P2.

4. That a notification was released for the Course of M. Phil in Clinical Psychology under the Respondent No. 3 University for Session 2019-2020. The Course is to last for a period of 2 years. A copy of the said Notification and the Application form as published in the Website of the University is Annexed as Annexure P3.
5. That on a bare perusal of the said form it is obvious that the form recognizes only two genders that are Male and Female. However, your Petitioner identifies herself as a female but she was born male. Hence, your petitioner is a Transgender Lady and she intends to fill up the form as a Transgender. However, there is no such option in the application form as Annexed in Annexure P3.
6. That as your petitioner is a Transgender, your petitioner seeks the implementation of the guidelines declared by the Hon'ble Supreme Court in WP (Civil) 400 of 2012, wherein the Hon'ble Court was pleased to direct the State and Center to treat them as educationally and Socially Backward and to extend all kinds of reservation in Educational Institutions and Public Service.
7. The Hon'ble Supreme Court also was pleased to allow the process of self identification for persons identifying themselves as Transgender. Hence there is no formal process by which a person has to prove the gender.
8. That till date there is no process of issuance of any OBC Certificate or any other certificate that declares transgender persons to belong to educationally and Socially Backward. Thus, the only document that would lie with your petitioner is Affidavit

4

sworn by your petitioner is Annexure P1. Hence, such a document may be construed as a certificate declaring your petitioner to belong to the OBC Category.

9. That your petitioner is unable to fill up the form owing to ignorant attitude by the respondent authority and moreover, she is not even allowed any reservation inspite of the guidelines issued by the Highest Court of the Country.
10. That not being able to fill up the form and not getting any reservation is affecting the basic Human dignity of your petitioner and she is extremely prejudiced by the omission and inaction on the part of the Respondent Authorities.
11. That by omitting to put others or Third Gender as a category in the form marked as Annexure P3, the Respondent has effectively derecognized Transgender persons. Hence, your petitioner is grossly prejudiced.
12. That the last day of filling up the form is Dec 2, 2019 and thus there is extreme urgency in the matter and the immediate intervention of this Hon'ble Court is required.
13. That the petitioner submits that the acts, inactions and deeds of the respondents concerned have grossly violated the petitioner's rights guaranteed under Articles 14 and 21 of the Constitution of India.
14. That the petitioner submits that the respondents has adopted a biased and partisan approach in dealing with the case of the petitioner and all other Transgender



persons and as such have thrust great hardship upon her and such acts and deeds of the concerned respondents are violative of the rules of justice, equity and fair play.

15. That the petitioner submits that the acts of the respondents concerned are also violative of the principles of Natural Justice.
16. Upon being extremely dissatisfied and aggrieved by the inaction of the respondents in having a very casual approach to the law and the fact that there is no column for Transgenders, Third Gender, Others in the form (Annexure P3) and the fact that there is no reservation provided for transgender persons and the fact that there is no certification declaring the Transgender persons to be Socially Backward, your petitioner begs to move this application under Article 226 of the Constitution of India on following amongst other:-

Grounds

- I. For that the action of the authority concerned is perverse, per se bad and unconstitutional;
- II. For that the authority concerned acted in a manner which was contrary to the procedure established by law;
- III. For that acts and deeds of the authority concerned indicate a biased and partisan approach of the respondents in dealing with the case of the petitioner;

- IV. For that the State Respondents have acted in a manner contrary to the law of the Land. Moreover, there is no standard of certifying Transgender persons to be Socially Backward. Hence, the affidavit, (Annexure P1) may be construed as a certificate of Other Back Classes.
- V. For that the petitioner submits that the acts, inactions and deeds of the respondents concerned have grossly violated the petitioner's rights guaranteed under Articles 14 and 21 of the Constitution of India.
- VI. That as your petitioner is a Transgender, your petitioner seeks the implementation of the guidelines declared by the Hon'ble Supreme Court the State and Center to treat them as educationally and Socially Backward and to extend all kinds of reservation in Educational Institutions and Public Service.
- VII. The Hon'ble Supreme Court also was pleased to allow the process of self identification for persons identifying themselves as Transgender. Hence there is no formal process by which a person has to prove the gender.
- VIII. That till date there is no process of issuance of any OBC Certificate or any other certificate that declares transgender persons to belong to educationally and Socially Backward. Thus, the only document that would lie with your petitioner is Affidavit sworn by your petitioner is Annexure

P1. Hence, such a document may be construed as a certificate declaring your petitioner to belong to the OBC Category.

IX. That your petitioner is unable to fill up the form owing to ignorant attitude by the respondent authority and moreover, she is not even allowed any reservation inspite of the guidelines issued by the Highest Court of the Country.

X. That not being able to fill up the form and not getting any reservation is affecting the basic Human dignity of your petitioner and she is extremely prejudiced by the omission and inaction on the part of the Respondent Authorities.

XI. That by omitting to put others or Third Gender as a category in the form marked as Annexure P3, the Respondent has effectively derecognized Transgender persons. Hence, your petitioner is grossly prejudiced.

XII. That the last day of filling up the form is December 2, 2019 and thus there is extreme urgency in the matter and the immediate intervention of this Hon'ble Court is required.

17. That the petitioner states that in the facts and circumstances stated hereinabove, he has made out a strong prima – facie case which warrants judicial review.

18. That the balance of convenience and/or inconvenience rests in favour of the petitioner for grant of reliefs as prayed for hereinafter and such reliefs, if granted, would provide adequate remedy to the petitioner.
19. That the petitioner shall suffer irreparable loss, injury and prejudice if orders as prayed for hereinafter are not granted.
20. That the petitioner has not approached any other Court or any other forum seeking redressal of the self-same cause of action.
21. This application is bonafide and made in the interest of justice.

In the facts and circumstances stated hereinabove,
The Lordships may be graciously pleased to pass
the following orders and/or directions –

- a) A writ of mandamus is issued directing the respondent authorities, especially, Respondent No. 3 to include the options of Transgender/ Others/ Third gender in the application form (Annexure P3).
- b) A writ of mandamus do issue directing the respondent authorities, especially, Respondent No.

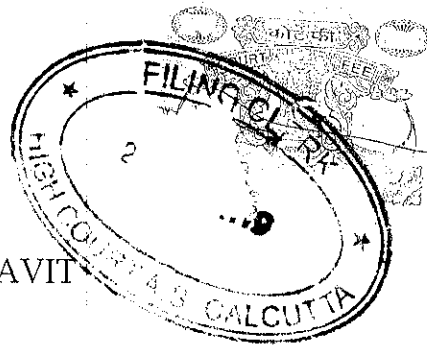
3 to treat the affidavit (Annexure P1) as a valid certificate for Other Backward Class.

- c) A writ of Certiorari do issue directing the respondent authorities to transmit all records pertaining to the cases made out against the private respondents so that conscionable justice may be rendered;
- d) Rule NISI in terms of prayers (a) to (c) hereinabove;
- e) An interim order do issue directing the respondents Ad-interim order in terms of clause (a) to (c) hereinabove;
- f) AN order staying the process of admission of the Respondent No. 3 authority in the Mphil Course.
- g) Costs and incidentals thereto;
- h) Any other or further order or orders, direction or directions as this Hon'ble Court may deem fit and proper.

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

5

Alia SK
20/11/2019



AFFIDAVIT

I, Mx Alia Sk being a Transgender, fathers name Sk. Mahalam, aged about 25 years, by faith- Islam, by occupation -Student, residing at- Beledanga South, Maheshtala, South 24 Parganas, Pin- 700141, do hereby solemnly affirm and say as follows :-

1. That I am the petitioner in the instant case and as such I am well acquainted with the fact and circumstances of this case.

2. That the statement made in paragraph 1-6 are true to my knowledge and paragraphs 7-12 are delivered from records rest are my respectful submission before the Hon'ble Court.

Prepared in my office

[Signature]
Advocate

Alia Sk
The deponent is known to me

[Signature]
Clerk to: G.K. Harra. 1.30PM.
Advocate

Solemnly affirmed before me
on 20th day of November, 2019

[Signature]

[Signature]

[Signature] 20/11/19
Commissioner
Commissioner of Affidavit
High Court, Appellate Side
Calcutta



पश्चिमबङ्ग पश्चिम बंगाल WEST BENGAL

23AB 123157



AFFIDAVIT

BEFORE THE LEARNED 1ST CLASS JUDICIAL MAGISTRATE AT ALIPORE

I, SK. ALAMGIR, son of Sk. Mahalam, an Indian citizen, by faith-Islam, aged about 24 years, by occupation- student, a permanent resident of E6/68/A Subhayan Park, Muchipara, PO. & PS.- Sarsuna, Kolkata- 700061, West Bengal, do hereby solemnly affirm, state and declare as follows:-

1. That I am the biological male child of Sk. Mahalam and was born on 15.10.1994.
2. That I identify myself as a Transgender and hence, I declare and undertake that, I wish to change my gender from Male to Female.
3. That from henceforth, I shall be known as ALIA SK, a FEMALE person and the same is also upheld by the judgment passed by the Apex Court in WP (Civil) No. 400 of 2012 on 15.04.2014 wherein the Hon'ble Court has held that a Transgender person has the right to decide their self-identified gender and the Central and

Annexure..... P. 1
To in paragraph..... 2
Foregoing Petition affirmed
by..... A. SK
in this..... 20th Day of..... NOV. 2019

Commissioner of Affidavit
High Court, Appellate Side,
Calcutta

State Governments were directed to grant legal recognition of their gender identity i.e. Male, Female, Transgender, and I wish to be content with my acquired gender officially by the virtue of the principle of the Apex Court in this present Affidavit.

- 4. That to avoid further confusion regarding my name and gender, I desire to be known as ALIA SK, a Female.
- 5. That the purpose of swearing this affidavit is to declare that I shall at all times hereinafter in all formal documents and proceedings, dealings and transactions, private or public as well as on all occasions whatsoever use my acquired gender.

6. I further admit before this Ld. Court that I should now be recognized as a Transgender and I humbly pray that the same be incorporated in all my documents.



That this affidavit is being sworn by me and is affirmed at my own will and in complete sound mind.

That the above statement made by me is true & correct to the best of my knowledge and belief.

SK. Alamgir (Alia SK.)

DEPONENT

Identified by me: Indira Chhabra

Date: 14.09.2018

Affidavit..... 56175
Solemnly affirmed before me this day
of 14 month 09 2017/18 by
the declarant of proper identification
at the swart:

Advocate
F/1214/2008.

3m
Judicial Magistrate
1st Class, Alipore

-14-

Annexure 02

Paragraph 3
Affirming Petition affirmed
A. SK.
Date: 20th Day of Nov. 2018

Sem-IV/18/ 17

WEST BENGAL STATE UNIVERSITY



लक्ष्यं विश्वमानम्

Commissioner of Affidavit
High Court, Appellate Side
Calcutta

Berunanpukuria, Malikapur, Barasat. 24 Parganas (North). Kolkata - 700126

M.Sc. in Psychology

Semester IV

Name of Candidate:- ALIA SK

Registration No:- 1001632400156

Session: (2016 - 2018)

Course	Internal Assessment (Total:15marks)	End Semester Assessment (Total:35marks)	Full Marks	Total Marks Obtained	Letter Grade ¹	Credit of the course (C)
Course: 225.411 Rehabilitation Psychology	9	26	50	35	A+	5
Course: 225.412 Psychological Rehabilitation And Intervention	7	24.5	50	32	A	5
Course: 225.413 Vocational Guidance & Counselling	7	24	50	31	A	5
Course: 225.418 Behaviour Modification & Counselling			50	27	C	5
Course: 225.419 Dissertation			100	76	A+	5
S.G.P.A. ⁴ 4.26	Y.G.P.A. ² 4.14		C.G.P.A. 4.08			

Equivalent Percentage of C.G.P.A. 61.60

SPECIALIZATION IN: REHABILITATION PSYCHOLOGY

Fourth Semester of Academic Session (2016 - 2018)

Date: 13.07.2018

A. K. Mukherjee

O.S.D.(Admn.) In-Charge of the office of the
(Controller of Examinations)

¹ See Reverse

- 16 - Annexure 2

Memo No--OG/WBUHS/2019-2020/1651

Date:01.11.2019

THE WEST BENGAL UNIVERSITY OF HEALTH SCIENCES

DD - 36, Sector - I, Salt Lake, Kolkata - 700 064

Website: <https://wbuhs.ac.in>



Updated Information Booklet

**Regulations for admission to M Phil in Psychiatric Social Work
And Clinical Psychology**

2019

Prepared by P3
 Checked by S
 Approved by A. SK.
 Date: 2014 NOV. 2019
 Signature:

17

1. Jurisdiction of the University

- 1.1. Admission to the seats in the Institute of Psychiatry affiliated to The West Bengal University of Health Sciences in M. Phil (2 years) course in Psychiatric Social Work and Clinical Psychology shall be made on the basis of the inter se merit lists of different categories/ castes of candidates by The West Bengal University of Health Sciences (WBUHS).
- 1.2. Admission will be on the basis of the results for selection to be conducted by the West Bengal University of Health Sciences (WBUHS).

2. Eligibility criteria

- 2.1. Citizens of India who have obtained any of the following qualifications shall be eligible to apply for the courses:
 - a) Psychiatric Social Work:
M.A. or M. Sc. in Social Work from a UGC recognized University with a minimum of 55% marks in aggregate (for Unreserved candidates) and 50% marks in aggregate (for Reserved candidates).
 - b) Clinical Psychology:
M.A/M. Sc in Psychology/ Applied Psychology or any equivalent qualification from a university recognized by the UGC with a minimum of 55% marks in aggregate (for Unreserved candidates) and 50% marks in aggregate (for Reserved candidates).
- 2.2 The age of the candidate will have to be less than 40 as on 1st August, 2019; i.e. date of birth of the candidate will be no earlier than 01.08.1979)
- 2.2 Candidates appearing at examination through his/her declaration. If it is found that declaration is not true, s/he will be debarred from the course at any stage before or even after admission.

3. Method of Submission of application

The candidates will have to take a print-out of the application form appended at the end of this Information Booklet, fill it and submit at the Office of the Controller, The West Bengal University of Health Sciences along with a bank draft of Rs. 3000/- (Three thousand only) drawn in favour of "The West Bengal University of Health Sciences" payable at Kolkata. The print out must carry with it an attested copy of the marksheet of the qualifying examination passed /appeared. The schedule of submission of the application form can be found at the end of this booklet. The

21

Annexure-I

M Phil in Psychiatric Social Work, Admission Schedule For 2019

Submission of print-copy of Forms at the office of Controller of Examinations, WBUHS	02.11.2019 - 14.11.2019 (2 : 00 p.m.) (Both days Inclusive)
Print copies will not be received in the office of Controller of Examinations WBUHS in person after 14.11.2019. However, print copies sent through speed / registered post will be received up to 15.11.2019. Provided the banker's cheque / Demand draft is purchased on or before 14.11.2019	
Admit Card will be mailed to the candidate from university	22.11.2019 evening onwards
Date of Written test (Tentative)	29.11.2019 (12 noon onwards)
Declaration of list of candidates for Interview	To be notified in https://wbuhs.ac.in in due course
Date of Interview	To be notified in https://wbuhs.ac.in in due course
Date of submission of attested copies, Verification original documents at counseling	To be notified in https://wbuhs.ac.in in due course
Session to start from	To be notified later on

22

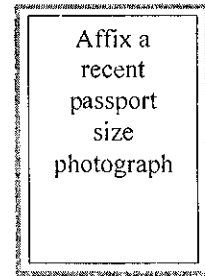
Annexure II

APPLICATION FORM FOR M PHIL IN PSYCHIATRIC SOCIAL WORK / CLINICAL
PSYCHOLOGY, 2019

(Tick whichever is applicable)

REGISTRATION INFORMATION

1. Name:
2. Father's Name:
3. Gender: M / F
4. Date of Birth (DD/MM/YYYY):
5. Mobile No:
6. Mail I.D. :



ACADEMIC INFORMATION

7. Name of Qualifying Examination:
8. Passing Institution:
9. Year of Passing / Appearing in the Qualifying Examination:
10. Percentage of Marks obtained in the Qualifying Examination / last semester of in the Qualifying Examination (if results are not declared so far):
11. Registration no. : Year of Registration:

SOCIAL INFORMATION

12. Nationality:
13. Caste:
14. PWD Status: Yes / No
15. Communication Address (in full with PIN Code):

INFORMATION OF BANK DRAFT PURCHASED

- Name of the Bank:
- Name of the Branch:
- Draft No. :

Full Signature of the Candidate

DISTRICT: Kolkata

In The High Court at Calcutta
Constitutional Writ Jurisdiction

Appellate Side

WP. No. 21646 (W) of 2019

In the Matter of:

An application under Article 226 of the
Constitution of India;

Has no Aadhaar / Has Aadhaar at page: 1/2

Full Sign. with date: *Keshab Chandra Mondal*
(Full Name: *22/11/19*)

-And-

Advocate / Clerk

In the Matter of:

Alia Sk

Vs

State of West Bengal and Ors

WRIT PETITION

Advocate on Record

INDRAJEET DEY

ADVOCATE

HIGH COURT AT CALCUTTA
Ch-43/2B, Suhasini Ganguly Sarani,
Kolkata 700025
Ph- 9804377236