

GAHC010146312023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No: I.A.(Civil)/2217/2023

SOLIM UDDIN

S/O LT. MUZAFAR ALI
VILL. MATRAGHOLA
P.O. KRITANPARA
P.S. ABHAYAPURI
DIST- BONGAIGAON
ASSAM

VERSUS

THE STATE OF ASSAM AND 4 ORS
REP. BY THE COMMISSIONER AND SECY. TO THE GOVT. OF ASSAM
EDUCATION DEPTT. ELE
DISPUR
GHY-6

2:COMMISSIONER and SECY. GOVT.OF ASSAM
FINANCE B DEPTT.
DISPUR
GHY-6

3:THE DIRECTOR OF ELEMENTARY EDUCATION
ASSAM
KAHILIPARA
GHY-19

4:THE DISTRICT ELEMENTARY EDUCATION OFFICER
BONGAIGAON
ASSAM

5:THE BLOCK ELEMENTARY EDUCATION OFFICER
SRIJANGRAM
DIST- BONGAIGAON
ASSAM

Advocate for : MR.M U MAHMUD

Advocate for : SC

ELEM. EDU appearing for THE STATE OF ASSAM AND 4 ORS

Linked Case : WP(C)/7058/2015

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VILL. MATRAGHOLA
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Advocate for : SC

ELEMENTARY EDUCATION appearing for THE STATE OF ASSAM AND 4 ORS

**BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA**

ORDER

Date : 06.10.2023

Heard Mr. M.U. Mahmud, learned counsel for the applicant. Also heard Mr. P. Borah, learned standing counsel for the School Education Department, Mr. A. Chaliha, learned standing counsel for the Finance Department.

2. By filing this application under section 5 of the Limitation Act, the applicant has prayed for condoning the delay of 450 days beyond the period of limitation in filing the connected application for restoration of WP(C) 7058/2015.

3. It appears that the proceedings of WP(C) 7058/2015 was dismissed for non-prosecution by order dated 11.11.2021. The applicant then moved this Court by filing I.A.(Civil) 592/2022 for restoration of the said writ petition. The said interlocutory application was also dismissed for non-prosecution by order dated 19.09.2022. In the said order, it is reflected that the case was previously listed on 23.03.2022, 27.06.2022 and 30.08.2022, but the same was not prosecuted.

4. In this case, the applicant has annexed the copy of the cause lists of the concerned Courts where I.A.(Civil) 592/2022 was listed on 23.03.2022, 27.06.2022 and 30.08.2022.

5. It appears that on 23.03.2022, the case was listed before Court Hall No.9 as Item No.51, but in the cause list, the name of the learned counsel for the applicant was not reflected. On 27.06.2022, the case was listed before Court Hall No.4 as Item No.10, but in the cause list, the name of the learned counsel for the applicant was not reflected. Similarly, on 30.08.2022, the case was again

listed before Court Hall No.13 as Item No.7, but in the cause list, the name of the learned counsel for the applicant was again not reflected. Ultimately, the matter was listed on 19.09.2022 before the Court Hall No. 18 as Item No. 48 and again the name of the learned counsel for the applicant was not reflected in the cause list.

6. Therefore, the learned counsel for the applicant has been able to demonstrate that on the 4 (four) days when the matter was previously listed, the name of the learned counsel was not reflected in the cause list.

7. In view of above, although Mr. P. Borah, learned standing counsel for the School Education Department and Mr. A. Chaliha, learned standing counsel for the Finance Department have both objected to the prayer made in this interlocutory application, but the Court finds that there are good and sufficient cause for the applicant for which the delay of 450 days had occurred.

8. Accordingly, this interlocutory application stands allowed by condoning the delay of 450 days in filing the connected application for restoration of WP(C) 7058/2015.

JUDGE

Comparing Assistant