

Party Name : MANINDRA CHANDRA DEBNATH Vs TRIPURA SMALL INDUSTRIES CORP. LTD. & ORS

HONBLE THE CHIEF JUSTICE DEEPAK GUPTA THE HONBLE MR JUSTICE U. B. SAHA

This is an application for condonation of 428 days delay in filing the writ appeal.

Judgment in the W.P.(C) No.410 of 2006 was announced on 04.06.2014.

According to the petitioner, soon thereafter, he had consultation with Mr. P. Datta, who was the co-petitioner with him in the said writ petition. The petitioner felt that his co-petitioner Mr. P. Datta would take steps for filing appeal against the said judgment. Accordingly, both the petitioner and Mr. P. Datta consulted Mr. P. Roy Barman, learned counsel in his chamber in the third week of June, 2014. They were asked to obtain certified copy of the judgment. As per the averment made in the petition, this consultation was held in the third week of June, 2014. Nothing prevented the learned counsel, who was contacted or his office from applying for the judgment. Even if the petitioner had to apply for the judgment he should have normally applied for the judgment immediately after Mr. P. Roy Barman asked him to apply for the judgment but in fact the judgment was applied on 11th August, 2014 more than one and half months later. We are sure that Mr. P. Roy Barman must have informed the petitioner that limitation for filing writ appeal is only 30 days. There is no explanation why copy of judgment was applied for after 45 days.

The petitioner then states that the certified copy of the judgment was ready for delivery on 13th August, 2014 but his mother fell ill and he had to go to Panisagar to attend upon his mother and he remained there from third week of August, 2014 till 11.10.2014 when his mother expired. He further states that he was busy till the end of November with regard to the 'Sradhya' ceremony and 'Kirtan' in connection with the rituals of his mother and the 'Kirtan' was held on the 41st day after the death of his mother. This would mean that the petitioner was busy till the end of November, 2014. However, the petitioner then goes on to state that he remained in Panisagar till the end of December but has given no explanation why he stayed in Panisagar after the completion of all rituals and came back to Agartala only in the second week of January, 2015. He states that he again contacted Mr. P. Datta, his co-petitioner but Mr. P. Datta refused to take any steps against the judgment of the learned Single Judge. Thereafter, according to the petitioner, he visited the chamber of Mr. P. Roy Barman on 3rd January, 2015 handed over the certified copy of judgment and order and then Mr. Roy Barman asked him to visit him again in the 4th week of February, 2015. When the limitation had already expired why should the counsel had advised him to come after 4 weeks. The limitation for filing the appeal had expired much earlier and at this stage we would expect urgency to be shown not only by the party but also by the counsel, who is approached. It is stated that Mr. P. Roy Barman, learned counsel was to be out of Station from 2nd February, 2015 for about 3 weeks. If appeal is being barred by limitation then the counsel would be better advised to tell the client to approach some other counsel or ask his juniors to file an appeal but cannot presume that the Court will condone the delay merely at the asking of the counsel.

The matter does not end here. According to the petitioner, his eye sight got damage and thereafter, he went eye surgery in G.B. hospital on 4th March, 2015 and remained occupied with his eye problem. Therefore, though the learned counsel had asked him to meet him in the 3rd week of February, 2015 even according to the petitioner he met the counsel only in the first week of May, 2015 and then he was advised to file an appeal and though this opinion is given in the first week of May, 2015, the appeal has been filed only on 16th October, 2015 and there is no explanation worth the name why the appeal was not filed between 1st week of May till October, 2015.

No documents have been placed on record with regard to the eye treatment of the petitioner. No documents have been placed with regard to the ceremonies held in respect of the rituals of the death of the mother.

We, therefore, are not at all satisfied with the reasons given in the application for condonation of delay, which is, accordingly, dismissed.