

D/L. 21.
May 2, 2023.
MNS.

WPA No. 24102 of 2010

Dankuni Babasayee Samanaya & Welfare
Samiti and others
Vs.
Union of India and others

Mr. Pitam Chowdhury,
Mr. Abhishek Addhya,
Mr. A. B. Ghosh

... for the petitioners.

Mr. Sauvik Nandy,
Mr. Anup Das Gupta

...for the respondent nos. 1 to 4.

Re: **CAN 4 of 2023 (condonation).**

Affidavit-of-service filed in Court today be
kept on record.

Despite service, only the respondent nos.
1 to 4 are represented through counsel.

Heard learned counsel for the appearing
parties.

It is seen that due to demise of the then
learned Advocate conducting the case for the
petitioners, who hails from the financial backward
portions of the society, the petitioners lost track of
the case, which led to the considerable delay of
about eight years in filing the restoration
application.

A perusal of the exhaustive pleadings made in the application for condonation of delay reveals that there is scope of doubt as to whether the petitioners were actually negligent in the matter.

Since it is the well-settled position of law that the courts are liberal in considering such applications, the grounds stated in the application for condonation of delay are accepted as sufficient grounds for condonation of the delay in preferring the restoration application.

Accordingly, CAN 4 of 2023 is allowed, thereby condoning the delay in filing CAN 3 of 2023.

Re: **CAN 3 of 2023 (restoration)**

CAN 3 of 2023, that is, the application for restoration is now taken up for hearing.

The reasons cited by the petitioners in the application for condonation of delay, which has already been allowed, overlap with the grounds made out in the restoration application itself, which explains the absence of the petitioners on the relevant date. Hence, I am of the opinion that the application for restoration ought to be allowed for substantial justice.

Accordingly, CAN 3 of 2023 is also allowed, thereby recalling the order dated April 1, 2015 passed in WP 24102(W) of 2010 (now WPA No. 24102 of 2010) and restoring the said writ petition to its original file and number.

There will be no order as to costs.

Re: WPA No. 24102 of 2010
(old No. WP 24102(W) of 2010)

The writ petition shall be listed for hearing in the monthly combined list of cases for the month of June, 2023.

(Sabyasachi Bhattacharyya, J.)