

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE
IA NO: GA/2/2021
W.P.O. No.1223 of 2009
Om Prakash Gupta.
Versus
The State of West Bengal & Ors.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : 25th April, 2022.

Mr. Ashutosh Bhattacharyya, Adv.
... for Writ Petitioners.

Mr. T.M. Siddiqui with
Mr. Debasish Ghosh, Advs.
... for State.

Mr. N.I. Khan with
Mr. Amal Kr. Mukherjee, Advs.
... for respondent no.5.

GA/3/2022 is deemed on consent of parties to be on the day's list.

GA/2/2022 is taken up for hearing first. Learned Counsel for the petitioner contends that, as explained in the said application as well as in GA/3/2022, which is the application for recall of the order dated January 15, 2015 passed by a concurrent Bench in WPO/1223/2009, the learned Advocate, who was conducting the case on behalf of the petitioner, had suffered from various predicaments during the relevant period. It has been stated in the application that since 2011, the octogenarian mother of the petitioner's learned Advocate, who was then staying at Burdwan, was admitted to a hospital of Salt Lake, Kolkata and thereafter was shifted from time to time and ultimately the mother of the petitioner's learned Advocate met her demise on November 28, 2016. That apart, the elder brother of the petitioner also,

after suffering for sometime, died on February 3, 2015. Hence, during the relevant period, the said learned advocate of the petitioner could not watch the list for the purpose of following the petitioner's matter.

It is submitted that thereafter, when the petitioner first took information of the matter, it was detected that the matter stood dismissed for default on January 15, 2015, upon which, on March 9, 2022, the present applications, that is, GA/2/2022 and GA/3/2022 have been taken out, for condonation of delay in filing the recall application and for recall of the order dated January 15, 2015 respectively.

Learned Counsel appearing for each set of respondents submit that although, in all fairness, they do not contest the veracity of the averments made in the said application till the death of the mother of the learned Advocate of the petitioner on November 28, 2016, the long delay of about six years even thereafter in filing the present applications, has not been explained at all by the petitioner.

Upon a perusal of the applications, this Court is fully satisfied with the reasons offered for the learned Advocate having missed out the matter in the list at the relevant period up to the expiry of the mother of the said Advocate on November 28, 2016.

However, as rightly contended by learned Counsel for the respondents, the petitioner has failed to explain as to what prevented the petitioner from enquiring into the status of the writ petition for a long period of six years thereafter till filing of the present applications.

A litigant should be diligent about his/her matter and not leave the matter entirely in the hands of the Counsel without taking any information of the matter for such a long period of six years. Hence in the absence of any explanation for the period taken for filing the applications after November 28, 2016 as late as in March 2022, GA/2/2022 is dismissed on contest, thereby refusing the prayer for condonation of delay in filing GA/3/2022.

Accordingly, GA/3/2022 is rendered *non est* and is deemed to stand dismissed as well.

No order as to costs.

(SABYASACHI BHATTACHARYYA, J.)