

Court No. 24
07.04.2022
(Item No. 882)
(tbsr)

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

W.P.A. 12742 of 2010
+
CAN 1 of 2021
+
CAN 2 of 2021

Uzzal Bar
vs
State of West Bengal & Ors.

Mr. Santi Pada Pahari
.....for the petitioner

Mr. Suman Dey
....for the State

The petitioner prays for recalling the order dated 23rd June, 2016 dismissing the writ petition for default. An application for restoration was filed on 13th September, 2021 along with an application under Section 5 of the Limitation Act praying for condoning the delay in filing the restoration application.

The petitioner has averred in the application for restoration that the petitioner was not informed by the learned advocate about the order of dismissal and accordingly the petitioner did not take any steps for restoration of the writ petition. There was a communication gap between the learned advocate and the petitioner.

It has further been mentioned that in the last week of December, 2019, the petitioner came to learn that similarly situated candidates were given appointment to the post of primary school teachers

pursuant to the order passed by the Hon'ble Supreme Court of India.

Order was passed by the Hon'ble Supreme Court on 24th January, 2019 in Civil Appeal No. 1071 of 2019 arising out of SLP (C) No. 29518 of 2016 (Amina Khatun and others Vs. Birbhum District Primary School Council and others). The petitioner seeks benefit of the said order.

The Hon'ble Supreme Court in the order dated January 24, 2019 passed a direction that the primary teachers who obtained their certificates from the institutes recognized by the State Government will also be entitled to the weightage under Rule 9 (2)(d) of the Recruitment Rules, 2001 so long as they have filed legal proceedings in the High Court on or before 31st December, 2010. In the present case the petitioner filed the writ petition prior to 31st December, 2010.

The Supreme Court further clarified that the entire exercise shall be completed and letters of appointment be issued within a maximum period of three months from that date.

The time limit fixed by the Hon'ble Supreme Court expired on 23rd April, 2019. The petitioner did not approach the authority for getting benefit of the order passed by the Hon'ble Supreme Court within the time specified.

The writ petition was dismissed for default on 23rd June, 2016. After the order was passed by the Hon'ble Supreme Court, the petitioner thought it fit to restore the writ petition with the intention of getting benefit of the direction passed by the Hon'ble Supreme Court in the order dated January, 24, 2019.

As the Supreme Court fixed the maximum time limit within which the entire exercise was to be completed and letters of appointment were to be issued and the said time period expired long ago accordingly, there is no scope for granting any benefit to the petitioner in terms of the order passed by the Hon'ble Supreme Court.

It appears that though the petitioner was entitled to get the benefit of the order passed by the Hon'ble Supreme Court but the petitioner did not approach either the Court or the respondent authorities within the time limit as specified by the Hon'ble Supreme Court.

In view of the above, there is no point in restoring the writ petition after such a long delay.

The application filed by the petitioner for recalling of the order dated 23rd June, 2016 and the application praying for condoning the delay in filing the application for restoration, both stands dismissed.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)