

DI. August
1. 31, 2022

W.P.A. 240 (W) of 2019

Shibu Mondal

VS.

State of West Bengal & ors.

Re: CAN 1798 of 2019 (recalling)
filed on December 5, 2019.

Mr. Tulsidas Roy,
Mr. Tapan Roy,
Ms. Sobnam Majumder,
...for the petitioner.

Mr. Jaharlal De,
Ms. Smita Das Dey,
...for the State respondents.

Mr. Sirsanya Bandhopadhyay,
Mr. Arka Kumar Nag,
Mr. Tirthankar Dey,
...for the respondent no. 8.

Mr. Nilotpall Chatterjee,
Mr. Sourav Sengupta,
...for the University.

Mr. Prahlad Chandra Ghosh,
Mr. Subir Hazra,
...for the respondent no. 11.

This is an application for recalling of the order dated February 1, 2019 by which a co-ordinate bench of this court dismissed the writ petition by observing that a lis could not be kept pending for an indefinite period due to non-representation of the writ petitioner. In the said order, the co-ordinate bench recorded that on the earlier occasion also the writ petitioner was not represented. We treat the said order as an order dismissing the writ petition for default as the co-ordinate bench has no occasion to decide the matter on merits.

The application was affirmed on February 18, 2019, but has been filed on December 5, 2019. The learned advocate appearing on behalf of the petitioner submits that since the record was misplaced, he could not file the application in time. We condone the delay in filing the application.

In the application for recalling, it has been stated that the learned advocate for the writ petitioner could not attend court on February 1, 2019 due to his personal difficulties and could not make submission with regard to the merits of the matter.

The matter was dismissed due to the negligent conduct of the writ petitioner. However, we observe that a litigant cannot suffer due to laches on the part of the lawyer representing on his behalf.

In our view, the writ petitioner was prevented by sufficient cause from attending the court on February 1, 2019 and making submissions on the merits of the matter. We, therefore, recall the order dated February 1, 2019 and restore the writ petition to its original file and number.

The application for recalling, thus, stands allowed without any order as to costs.

(Soumen Sen, J.)

dns

(Arindam Mukherjee, J.)