

06.01.2021
SL No.18
Court No.12
(P.M.)

MAT 296 of 2020
With
CAN 1 of 2020
(Old No: CAN 2802 of 2020)
With
CAN 2 of 2020
(Old No: CAN 2806 of 2020)

The State of West Bengal & Anr.
Vs.
Dr. Goutam Pal & Ors.
(Via Video Conference)

Mr. Swapan Kr. Datta, A.G.P.
Mr. Dipankar Das Gupta
.... For the State/petitioners

Mr. Deepnath Ray Chowdhury,
Mr. Ankit Sureka
...for the respondent No. 6 & 7

Re: CAN 2802 of 2020

This is a Section 5 application seeking condonation of delay in preferring the appeal. We have seen the said application and the explanation offered in support of causing delay in preferring the appeal. We are satisfied with the explanation offered and, accordingly, condone the delay in instituting the appeal.

Let the appeal be registered if it is otherwise in form.

The application for condonation of delay being CAN 2802 of 2020 is disposed of.

Re: CAN 2806 of 2020

The argument on behalf of the appellant that the respondent No. 7 is not an instrumentality of the State under Article 12 of the Constitution of India or any person

or authority within the meaning of Article 226 of the Constitution of India is not impressive, having regard to the fact, that the appellants have a deep and permissive control over the respondent No. 7. Moreover, it is not being denied that the respondent No. 7 receives substantial aid from the State of West Bengal in connection with its functioning. Further, our attention is drawn to order passed by the Coordinate Bench on 26th August, 2020 in MAT No. 2002 of 2019 in which the point of maintainability of the writ petition urged by RCC Institute of Technology was kept open. The aforesaid view as to maintainability is prima facie. In view thereof we are not inclined to grant stay. However, we shall hear the appeal.

We have been informed that paper book has already been filed in MAT No. 2002 of 2019. In view of the fact that appeal is arising out of the same order but by different parties the paper book filed in MAT No. 2002 of 2019 shall be treated as paper book for the present appeal being MAT No. 296 of 2020 and there would be no further requirement to comply with all or any of the formalities for service of notice and/or preparation of paper book.

The memo of appeal in MAT 296 of 2020 tagged with MAT 2002 of 2019 shall be listed for hearing on 10th February, 2021.

The application for stay being CAN 2806 of 2020 is accordingly disposed of.

(Saugata Bhattacharyya, J.)

(Soumen Sen, J.)