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17.11.2021.
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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 22412 of 2019

S.D. Construction
represented by Samir Sil
-vs.-
The State of West Bengal & Ors.

Mr. Manik Lal Poddar
... for the petitioner

Despite service, none appears on behalf of the respondents.

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

Learned counsel for the petitioner contends that the State Forum acted palpably *de hors* its jurisdiction in setting aside an order passed long back on May 06, 2016 by the concerned District Forum, thereby dismissing the application of the private respondent no. 3.

Learned counsel submits that subsequently an application for recall was filed by the private respondent, which initially succeeded. However, subsequently the said order of recall was set aside by the State Forum itself.

After a long gap thereafter, the private respondent preferred an appeal, this time against the original order of dismissal for default, without any explanation whatsoever as to the inordinate delay in preferring the said appeal.

By the impugned order, it is clear that the State Forum, at the outset, without considering the long delay in preferring the appeal as well as without going into the merits of the matter, set aside the order dated May 06, 2016 passed by the District Consumer Disputes Redressal Forum, District-North 24-Parganas at Barasat in CC No. 443 of 2015. On the face of it, the State Commission failed to consider the time bar in filing the appeal and to appreciate that no cause was shown by the appellant/present respondent no. 3 for such inordinate delay in preferring the appeal. In such view of the matter, the impugned order was passed palpably without jurisdiction.

Accordingly, W.P.A. No. 22412 of 2019 is allowed, thereby setting aside the impugned order dated April 12, 2019 passed by the State Consumer Disputes Redressal Commission in Appeal No. A/264 of 2018 and remanding the matter back to the State Commission for rehearing of the appeal, upon giving appropriate consideration to the question as to whether the appeal was time-barred as well as to consider the merits in appropriate manner in accordance with law.

The State Commission is requested to hear the appeal afresh on the above points and dispose of the same as early as the roster of the said Commission permits.

The petitioner shall communicate this order to the State Commission as well to the other respondents at the earliest, along with server copies of the same.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)