

09.
08.08.2022.
Ct. No. 11.
F.B.

MAT 227 of 2020
with
IA No. CAN 1 of 2020
(Old No. CAN 2922 of 2020)
with
IA No. CAN 2 of 2020
(Old No. CAN 2923 of 2020)

Badal Mallick
-Vs.-
The State of West Bengal & Ors.

Mr. Tarun Jyoti Tewari
..... For the Appellant.

Mr. Susanta Pal,
Mr. Prabir Kumar Ray
..... For the State.

Re: IA No. CAN 1 of 2020
(Old No. CAN 2922 of 2020)

Party/Parties is/are represented in the order of
their name/names as printed above in the cause title.

Since this Court is satisfied that sufficient cause
has been shown in filing this appeal beyond time, which
is supported by IA No. CAN 1 of 2020 (Old No. CAN
2922 of 2020), the delay stands condoned and the
appeal is considered on merits.

Accordingly, **IA No. CAN 1 of 2020 (Old No.**
CAN 2922 of 2020) stands **disposed of.**

MAT 227 of 2020
With
IA No. CAN 2 of 2020
(Old No. CAN 2923 of 2020)

Mr. Tewari, Learned Counsel appearing for the appellant/the writ petitioner, submits that the Hon'ble Single Bench failed to appreciate the other writ petitioners, similarly circumstanced who have received benefit of the orders of the Hon'ble Single Bench passed in their respective cases and arising out of the self-same cause-of-action. It is submitted that the appellants/the writ petitioners, along with other similarly circumstanced Civic Police Volunteers, were identified participants in a protest march held in 2020.

It is further submitted that whereas in three of the writ petitions of other similarly circumstanced Civic Police Volunteers who were identified to have participated in the protest march, the Hon'ble Single Benches have been pleased to *inter alia*, direct the concerned authority, being the Superintendent of Police, Krishnagar, Nadia to consider their respective representations, the Hon'ble Single Bench turned down the prayer of the present appellant/the writ petitioner on the ground that there has been inordinate unexplained delay on the part of the present appellant/the writ petitioner to approach the concerned

respondent authorities with his prayer for reinstatement.

It is submitted that in all the other writ petitions, the Hon'ble Single Bench took notice of representations which were submitted to the concerned authority in the years 2018 and 2019, i.e. upon the expiry of an equal number of years such as in the case of the present appellant/the writ petitioner. The writ petitions of the other similarly circumstanced Civic Police Volunteers also belong to the years 2018 and 2019, similar to that of the writ petitioner/present appellant which is of the year 2019.

Accordingly, Mr. Tewari submits that his client has a *pari materia* case as considered by the Hon'ble Single Bench in the other writ petitions and hence prays for setting aside the order impugned dated 25th of September, 2019.

Mr. Pal, Learned State Counsel appearing with Mr. Ray, Learned Advocate, submits that the cases of the Civic Police Volunteers as referred to by Mr. Tewari are distinguishable from that of the present appellant/the writ petitioner. The present appellant/the writ petitioner is a fence-sitter and has prayed for reliefs before this Court after an order has been passed in the other writ petitions. The Hon'ble Single Bench therefore

correctly dismissed the writ petition on the ground that the writ petitioner appears to have made the first representation in August, 2019 and such inordinate delay has not been explained. Accordingly, the writ petitioner was found to be on a different footing from the other Civic Police Volunteers.

Having heard the parties and considering the materials placed, this Court is of the view that there is no reason as to why the appellant's/the writ petitioner's representation be directed to be considered by the Superintendent of Police, Krishnagar, Nadia and having regard to the fact that the cause-of-action of all the writ petitioners/the Civic Police Volunteers emanates from the common protest march in 2014.

However, it will be open to the Superintendent of Police, Krishnagar, Nadia to take notice of any special fact connected to the present appellant/the writ petitioner and record the same before passing an order on merits on the claim of the writ petitioner to be re-appointed as a Civic Police Volunteers.

This Court makes it absolutely clear that there is no impediment on the Superintendent of Police, Krishnagar, Nadia to exercise his discretion according to the merits of this case.

Let the reasoned order of the Superintendent of Police, Krishnagar, Nadia be also communicated to the present appellant/the writ petitioner.

Let the above stated exercise be completed within a period of six weeks from the date of communication of this order.

In view of the above discussion, **MAT 227 of 2020** with **IA No. CAN 2 of 2022 (Old No. CAN 2923 of 2020)** stands **disposed of**.

All parties to act in terms of the copy of the order downloaded from the official website of this Court.

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

(Lapita Banerji, J.)

(Subrata Talukdar, J.)