

MAT 684 of 2019
With
CAN 1 of 2019 (Old CAN 7067 of 2019)

Sri Subhendu Ghosh & Anr.
Vs.
The State of West Bengal & Ors.
(Through Video Conference)

Mr. Achyut Basu
Ms. Sonam Basu
Ms. Punam Basu

... .. for the appellants

Mr. Partha Pratim Roy
Mr. Ram Chandra Guchhait

... .. for the State

Mr. Tapan Kumar Rakshit

... .. for the respondent no.3

By this appeal the writ petitioners have challenged the order of the learned Single Judge dated 18th April, 2019 whereby WP No. 9109(W) of 2010 has been dismissed on the sole ground that the appellants had not complied with the earlier order of the writ Court dated 1st April, 2019 requiring them to serve a copy of the petition upon the Government Pleader.

Learned counsel for the appellants has submitted that the writ petition was pending before the learned Single Judge since 2010 and the Government Pleader was served thrice and even otherwise for such a small technical default the writ petition itself ought not to have been dismissed taking away the right of the writ petitioners to prosecute the matter.

Learned counsel for the State appearing in the matter has fairly stated that now he has received another copy of the writ petition with enclosures, therefore, he

has no objection if the matter is sent back to the learned Single Judge for adjudication in accordance with law.

Learned counsel for the respondent no. 3 also does not have any objection if the matter is remanded back.

Having regard to the fact that the writ petition has been dismissed on a mere technicality for not serving a copy of the writ petition and that the merits of the matter have not been examined and for such a small technicality in the facts of the present case, the right of the appellants to prosecute the matter cannot be taken away and also taking note of the fact that the respondents have no objection in remanding the matter back, we allow this appeal and set aside the order dated 18th April, 2019 and restore the writ petition to the original position before the learned Single Judge with the hope that the same will be considered and decided in accordance with law expeditiously.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)