

61 **22.06.
2022**
Ct. No. 04

Ab

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side.

WPLRT 73 of 2022

Shyamal Banerjee
Vs.

The State of West Bengal and others.

Mr. Supratim Dhar,
Mr. Santimay Bhattacharya,
Mr. Tirupati Mukherjee.
... for the petitioner.

Mr. Ayan Banerjee.
... for the State.

The instant writ petition arose from an order dated 8th April 2022 passed by the West Bengal Land Reforms and Tenancy Tribunal dismissing the application for condonation of delay filed by the petitioner.

The tribunal has proceeded to dismiss the said application holding that there is no sufficient explanation for long period of delay occasioned in moving the tribunal by the petitioner.

Obviously, at the first blush, one would support the reasons provided therein that in absence of any sufficient cause having shown in the said application, the condonation of delay cannot be made simply by taking a liberal view or lenient approach. However, our attention is drawn to the facts and averments made in the application for condonation of delay in conjunction with the relevant documents, which, according to the petitioner, were available before the tribunal and are also annexed with the instant writ petition.

The dispute arose as far back as in the year 2014 when a representation was made by the petitioner before the competent authority i.e. the Block Land and

Land Reforms Officer, Raghunathpur, for exercising the option for retention. Since the said representation was kept pending, as the authority did not take any decision, the tribunal application being OA 1174 of 2014 was disposed of on 18th November 2014 directing the said authority to dispose of the said application within a stipulated time. Even thereafter the said representation was not disposed of, which led the filing of the contempt application being MA 300 of 2016 before the tribunal. Immediately after the contempt proceeding was initiated, the said authority activated the process and disposed of the said representation on 14th June 2018 and communicated to the petitioner when the said contempt application was taken up on 9th July 2019.

The order of 9th July 2019 would reveal that since the order was complied with though after a gross delay, it was rightly thought of that the contempt jurisdiction cannot be extended to determine the veracity, legality and authenticity of the decision of the authority taken on the said representation. Obviously for such purpose the submission was made to drop the contempt proceeding with liberty to challenge the said order before the appropriate forum. Such liberty was granted by the tribunal meaning thereby the order is susceptible to be challenged before the authority as the remedy was being pursued before a wrong forum.

The averments made in paragraph 2 and 3 of the said application would denote the aforesaid facts not in extenso but corroborated by the documentary evidence. The tribunal was approached within a short span of time from the date of the order dated 9th July 2019 and, therefore, the tribunal ought to have considered the aforesaid facts before proceeding to dismiss the application for condonation of delay.

It is no doubt true that the length of delay is immaterial for the purpose of considering the application for condonation of delay. The delay of longer period can be condoned provided the explanation made therein is within the ambit of sufficient cause; whereas the delay of shorter period cannot be condoned in absence thereof. The Court should not adopt a pedantic or rigid rule in deciding the application for condonation of delay but the encouragement should be shown to dispose of the same on merit.

The facts as assimilated herein above undoubtedly prevents the petitioner from approaching the Court within the statutory period of limitation provided therefor as the contempt application was pending before the tribunal and disposed of on 9th July 2019.

We, thus, find that the sufficient cause has been shown by the petitioner and the tribunal ought to have condoned the delay.

The order of the tribunal is, thus, set aside. As a consequence whereof, the application for condonation of delay being MA 1023 of 2019 stands allowed. The delay in filing an application before the tribunal is hereby condoned.

The tribunal is directed to expedite the hearing of the said application by fixing the date at a reasonable interval not beyond one month from the earlier date.

With these observations, the writ petition is disposed of.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J.)

