

20.
20-12-2022
debajyoti
(Ct. no.06)

MAT 1581 of 2022
+
IA NO:CAN/1/2022
+
CAN/2/2022

The State of West Bengal & Ors.
Vs.
Ashik Shaik

Mr. Amitesh Banerjee, Senior Standing Counsel,
Mr. Tarak Karan,
Mr. Domingo Gomes
... For the Appellants/State.

Mrs. Shanti Das
... For Respondent/Writ Petitioner.

Re : CAN/2/2022

This is an application for condonation of delay of 64 days in filing the appeal. Causes shown being sufficient, the delay is condoned.

The application being CAN 2 of 2022 is, thus, allowed.

Re : MAT/1581/2022 & CAN/1/2022

By consent of the parties, the appeal and the application are taken up together for hearing.

This appeal is directed against a judgment and order dated June 20, 2022 whereby WPA 12499 of 2021 was disposed of. The operative portion of the judgment under appeal reads as follows:

“ In view of the above, the petitioner is entitled to refund of the 1/3rd bid amount deposited by him by the authority along with statutory interest thereon in view of the fact that the amount has been lying with the authority for considerable period of time.

Accordingly, the writ petition is disposed of directing the 3rd respondent to take necessary steps for refund of the 1/3rd bid amount deposited by the petitioner along with statutory interest thereon within two months from the date of communication of this order. ”

Being aggrieved, the State is before us by way of this appeal.

We have heard learned counsel for the parties at length. Mr. Banerjee, learned Senior Standing Counsel, representing the State, has vociferously argued that nothing is payable to the writ petitioner. The learned Judge failed to appreciate the facts and circumstances of the case. The writ petitioner is not entitled to refund of the 1/3rd bid amount far less any interest.

We have also heard learned counsel for the writ petitioner, who reiterated her argument advanced before the learned Single Judge.

In the case of one Sk. Sahadat Ali on identical set of facts, a coordinate Bench had passed an order directing refund as well as allowing interest at the rate of 5% per annum and if the payment was not made within two months, then interest at the rate of 8% per annum. The State had carried that order before the Hon'ble Supreme Court by way of Special Leave to Appeal [SLP (C) No.3570/2022]. The Hon'ble Supreme Court dismissed the Special Leave Petition by clarifying that interest will be payable at the rate of 5% all throughout and not at the enhanced rate of 8% after two months, as was directed by the Division Bench.

In view of the aforesaid, we modify the order of the learned Single Judge to the extent that the

respondent authorities shall refund the 1/3rd bid amount deposited by the writ petitioner along with interest at the rate of 5% per annum, within two months from the date of communication of this order.

The appeal and the application are, accordingly, disposed of.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties on compliance of necessary formalities.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)