

09.10.2023
SL No.26
Court No.8
(gc)

FMA 917 of 2015
CAN 1 of 2014 (Old No: CAN 10549 of 2014)

Surjendu Bikash Banerjee & Ors.
Vs.
The State of West Bengal & Ors.

1. The parties are not represented nor any accommodation is prayed for on behalf of the parties.
2. The appeal had appeared in the warning list of cases on and from 19th September, 2023 with a clear indication that the said matter shall be transferred to the Regular Bench on 6th October, 2023. The appeal is again listed today in the main cause list. All the parties have sufficient notice about the listing of the matter before the Regular Bench on and from 6th October, 2023.
3. The appeal was filed on 25th September, 2014. The record shows that no attempt has been made to move this appeal after it was filed. No step has been taken to serve notice and prepare paper books. It clearly shows that the appellant is not interested to proceed with the appeal and has virtually abandoned the appeal. However,

we consider the materials on record and the impugned order.

4. However, we are of the view that the learned Single Judge was justified in dismissing the writ petition on the ground of delay. The subject matter of challenge in the writ petition was a communication that is 26th July, 1996 by the Secretary of the West Bengal Board of Secondary Education to the Headmaster of the school in question. The writ petition was moved ex parte on 15th January, 2001 praying for cancellation and quashing of the said memo. On the returnable date, the State respondents raised an objection with regard to the maintainability of the writ petition on the ground of delay. The delay could not be satisfactorily explained.
5. The learned Single Judge in dismissing the writ petition has made the following observation:-

“Now, the point is very well-settled that even though for moving a petition there is no fixed time limit there should not be any inordinate delay in moving the same without any proper explanation for that. Reverence may be made to the case of State of Madhya Pradesh and Another Vs. Bhailal Bhai and Others, AIR 1964 SC 1006 where the Supreme

Court had held that the provisions of the Limitation Act do not as such apply to the granting of relief under Article 226. However, the maximum period fixed by the legislature as the time by which a relief by a suit is a civil court must be brought may ordinarily be taken to be a reasonable standard by which delay is seeking remedy under Article 226 can be measured. Where the delay is more than this period, it will almost be always proper for the courts to hold that it is unreasonable.

In such view of it I do not find any reason to entertain this writ petition after an inordinate delay of 5 years merely because the present managing committee had taken charge in the year 2000.”

6. On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.
7. Accordingly, the appeal and the application stand dismissed.
8. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)