

Item-22. 13-10-2023

FMA 686 of 2022
CAN 1 of 2022

sg Ct. 8

Uzzal Bar
Versus
The State of West Bengal & Ors.

Mr. S.P. Pahari, Adv.
...for the appellant

1. The appellant filed an application for recalling of the order dated 23rd June, 2016 dismissing the writ petition for default. The application for restoration was filed on 13th September, 2021 along with an application under Section 5 of the Limitation Act praying for condoning the delay in filing the restoration application. The delay has not been explained. Moreover, the reliance has been placed on the order dated 24th January, 2019 of the Hon'ble Supreme Court in ***Civil Appeal No. 1071 of 2019*** arising out of ***SLP (C) No. 29518 of 2016 (Amina Khatun & Ors. vs. Birbhum District Primary School Council & Ors.)***.
2. It appears that the Hon'ble Supreme Court in the order dated January 24, 2019 passed a direction that the primary teachers who obtained their certificates from the institutes recognized by the State Government will also be entitled to the weightage under Rule 9(2)(d) of the Recruitment Rules, 2001 so long as they have filed legal proceedings in the High Court on or before 31st December, 2010. In the present case the petitioner filed the writ petition prior to 31st December, 2010.
3. The Supreme Court further clarified that the entire exercise shall be completed and letters of appointment be issued

within a maximum period of three months from that date.

4. The time limit fixed by the Hon'ble Supreme Court expired on 23rd April, 2019.
5. The writ petitioner did not approach the authority for getting benefit of the order passed by the Hon'ble Supreme Court within the specified time. The learned Single Judge was of the view that even if the writ petition is restored and the matter is decided in favour of the petitioner, the benefit cannot be extended in view of the fact that the time limit prescribed by the Hon'ble Supreme Court was for a period of three months from the date of the order dated 24th January, 2019. A person who is vigilant, can only be taken a benefit of law.
6. We do not find any reason at this stage to interfere with the order passed by the learned Single Judge. The appeal fails. However, there shall be no order as to costs.
7. The appeal and the connected application are accordingly, dismissed.

(Uday Kumar, J.)

(Soumen Sen, J.)