

09.10.2023
SL No.36
Court No.8
(gc)

**MAT 784 of 2023
CAN 1 of 2023
CAN 2 of 2023**

**Smita Rang
Vs.
State of West Bengal & Ors.**

Mr. Rama Prasad Sarkar,
Ms. Debarati Sen (Bose),
...for the Appellant.
Mr. Supriyo Chattopadhyay,
Mr. Pinaki Bhattacharyya,
...for the State.

Re: CAN 2 of 2023

1. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation.
2. The delay of 146 days in filing the memorandum of appeal is condoned.
3. Accordingly, the application for condonation of delay is allowed and disposed of.

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CAN 1 of 2023**

4. The appeal is arising out of an order dated 9th November, 2023 by which the learned Single Judge taking note of the fact that the appellant did not appear on 26th September, 2022 and subsequently on 9th November, 2022 was of the opinion that the writ petitioner has lost interest in the

matter and accordingly dismissed the writ petition and vacated the interim order, if any.

5. The proper course would be to file an application for recalling of the order and for restoration of the matter. It is an admitted position that on the dates mentioned in the order the writ petitioner was not represented and, accordingly, it cannot be said that the learned Single Judge has committed any error in dismissing the writ petition, however, if a litigant is not represented, the writ petition might be dismissed for default and further opportunity could get to file an application for restoration.
6. Under such circumstances, we dispose of the appeal and the application by giving liberty to the appellant to approach the learned Single Judge with a prayer for restoration of the appeal.
7. However, there shall be no order as to costs.
8. Affidavit of service is kept with the record.

(Uday Kumar, J.)

(Soumen Sen, J.)