

01.02.2023
Court No. 19
Item no.02
CP

W.P.A. No. 15433 of 2021

Sabina Yeasmin

Vs.

The State of West Bengal & Ors.

Mr. Rwitendra Banerjee

Mr. Shibasis Chatterjee

...for the petitioner.

Mr. Sunil Gupta

Mr. Hasibul Islam

...for the respondent no. 5.

Mr. Tapan Kr. Ray

...for the State.

Despite service on two occasions, the respondent no. 7 has failed to appear before the court. The affidavits of service are taken on record. Thus, the writ petition is taken up in the absence of the respondent no. 7. The respondent no. 7 shall get adequate opportunity to represent his case before the appellate authority.

The petitioner was disqualified from his membership of the Murshidabad Zilla Parishad by the order of the prescribed authority. A statutory appeal was filed by the petitioner beyond the period of limitation prescribed under the relevant statute. The Special Secretary, Government of West Bengal, Department of Panchayats & Rural Development as the appellate authority, dismissed the appeal on the ground of delay. The appellate authority opined that

the appeal under Section 213A(12) of the West Bengal Panchayat Act, 1973 was not received by the department within 30 days from the date of the order of disqualification. The order of disqualification was passed on April 23, 2021.

On January 10, 2022, a Three-Judges Bench of the Hon'ble Apex Court while disposing of a *suo motu* writ petition and other miscellaneous applications had clarified that in all cases in which the period of limitation had expired between March 15, 2020 to February 28, 2022, the time frame would be extended for a period of 90 days from March 1, 2022.

In this case, the period of limitation expired around May 22, 2021, which was well within the period between March 15, 2020 to February 28, 2022 and by virtue of the order of the Hon'ble Apex Court, the period of limitation stood extended beyond the aforementioned period.

The appeal was filed on June 29, 2021 and as such, the order impugned is set aside and cancelled.

The appellate authority shall proceed to hear the appeal on its own merits and the delay is condoned by the order of this court following the order of the Hon'ble Apex Court dated January 10, 2022.

The appellate authority shall issue a notice upon the appellant as also the respondent no. 7 and the appeal will proceed in accordance with law.

Both the parties will be allowed to file their written submissions and adduce oral and documentary evidence in support of their claims.

A reasoned order shall be passed and communicated to the parties.

The entire exercise shall be completed within a period of three months from the date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)