

27.07.2023  
Item No.23  
gd/ssd

MAT/1130/2023  
IA NO: CAN/1/2023, CAN/2/2023  
DIRECTORATE OF FISHERIES, WEST  
BENGAL AND ORS.  
VS  
ANMOL FEEDS PRIVATE LIMITED AND ANR.

Md. T.M. Siddique,  
Ms. Sukla Das Chandra

... for the Appellants.

Mr. Ishan Saha,  
Mr. Saumava Mukherjee,  
Mr. Subhankar Chatterjee

... for the Respondents.

**Re: CAN 1 of 2023**

1. CAN 1 of 2023 has been filed by the appellants seeking condonation of delay of six days in filing this appeal.

2. Learned counsel for the appellants has referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellants were prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 1 of 2023 is, accordingly, allowed.  
The delay in filing the appeal is condoned.

**Re: MAT 1130 of 2023**

5. This intra court appeal by the Directorate of Fisheries is against the interim order passed by the learned Single Bench dated 15.05.2023 in WPA 4149 of 2023 by which the appellants were directed to make 50% payment of the writ petitioners' claim.

6. From the impugned order we find that the court was satisfied that there was an arguable case and precisely for such reason the appellants-Directorate of Fisheries was directed to file their affidavit-in-opposition. If that be so, we are of the view that an interim direction to pay 50% would virtually amounting to granting partial relief in the main writ petition itself which will not be appropriate.

7. Therefore, we allow this appeal and set aside that portion of the order and with a direction to the appellants to file their affidavit-in-opposition not later than 10<sup>th</sup> August, 2023. If the appellants fail to file their affidavit-in-opposition within the said date, the right of the appellants to file their affidavit-in-opposition shall stand foreclosed and the writ petition will be decided based on the available documents after hearing the submissions on either side. In the event affidavit-in-opposition has been filed within the said date, the respondents/writ petitioners are granted liberty to file their reply, if any, not later than 18.08.2023.

8. Registry is directed to list the writ petition before the appropriate court in the week commencing from 21.08.2023.

9. With the above direction, the appeal stands disposed of.

**(T. S. SIVAGNANAM)**  
**CHIEF JUSTICE**

**(HIRANMAY BHATTACHARYYA, J.)**