

WPLRT 560 of 2005

***Rahamatullah Chowdhury(since deceased)
represented by heirs and legal representative
Asma Khatun & Ors.***

Vs.

The State of West Bengal & Ors.

Md. Idrish, Advocate

... .. For the Petitioner

The writ petition is directed against an order dated May 6, 2004 passed in MA 609 of 2003 (TA 2543 of 2000)/LRTT.

By the impugned order, the Tribunal did not accept the explanation for non-appearance of the learned advocate on the date of dismissal of default.

Learned advocate appearing for the writ petitioners draws the attention of the Court to the pleadings made in the application for restoration.

It appears from the records that, the writ petitioners filed a writ petition before the High Court which was subsequently transferred to the Tribunal and registered as TA 2543 of 2000. Such writ petition was dismissed for default by the Tribunal on December 15, 2003 on the ground that, none appeared in support of the writ petition.

We remind ourselves that, we should be lenient in considering an application for restoration. We are lenient while considering an application for restoration primarily on the ground that the litigant should not suffer due to the fault of the advocate, if there be any.

In the facts of the present case, the pleadings in the application for restoration is that, the clerk of the learned advocate went to his native place to celebrate Eid festival and fell ill and could not rejoin the duties in order to assist the learned advocate to appear on the date of dismissal of default. On a lenient view of such statement, we find that, adequate ground was made out by the writ petitioners for restoration of the writ petition.

In such circumstances, we set aside the impugned order date May 06, 2004 and allow MA 609 of 2003. We restore TA 2543 of 2000 to its original file and number. We request the learned Tribunal to hear and dispose of such TA as expeditiously as possible in view of the fact that it is pending for a considerable period of time.

WPLRT 560 of 2005 is **disposed of** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)