

Item-35. 18-10-2023

sg Ct. 8

MAT 2010 of 2023
CAN 1 of 2023
CAN 2 of 2023

Md. Anesur Rahman
Versus
The State of West Bengal & Ors.

Mr. Biswaroop Bhattacharya, Adv.
Mr. Anindya Bose, Adv,
Mr. Golam Mohiuddin, Adv.
Ms. Puja Mondal, Adv.

...for the appellant

Mr. Prasenjit Mukherjee, Adv.
Ms. Madhurima Sarkar, Adv.

...for the Madrasah Board

Mr. Amal Kr. Sen, Adv.
Mr. Lal Mohan Basu, Adv.

...for the State

1. CAN 2 of 2023 is an application for condonation of delay.

There is a delay of 2 days in preferring the memorandum of appeal.
2. Sufficient cause being shown for not being able to file the memorandum of appeal within the period of limitation. The delay of 2 days in filing the appeal is hereby condoned. CAN 2 of 2023 is thus, disposed of.
3. Mr. Biswaroop Bhattacharya, learned Counsel for the appellant has submitted that the Directorate of Madrasah Education has recommended the name of the petitioner as Superintendent of Madrasah. However, the petitioner has been shown as accused.
4. The learned Single Judge was of the view that without inviting affidavits from the parties, this issue cannot be resolved.
5. Mr. Bhattacharya has submitted that the petitioner is already working in a separate Madrasah and as such, there cannot be

any impediment for the petitioner being appointed on the basis of the recommendation irrespective of pendency of the criminal proceeding.

6. In considering the matter, it seems that whether any charge has been framed against the petitioner and whether the criminal proceeding can stand in the way of the petitioner being allowed to be appointed as there may be uncertainty with regard to the conclusion of the trial.
7. We are sure that the learned Single Judge in deciding the matter on merits upon affidavits, shall take into consideration such relevant facts as also the nature of the offence in deciding the writ application.
8. At this stage, we, however, do not find any reason to interfere with the order passed by the learned Single Judge.
9. The appeal and the application being CAN 1 of 2023 are accordingly dismissed. However, there shall be no order as to costs.

(Uday Kumar, J.)

(Soumen Sen, J.)