

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
ORIGINAL SIDE

APOT/241/2023
with
WPO/299/2023
IA NO.GA/1/2023
IA No. GA/2/2023

ICS CHEMICAL INDUSTRIES AND ANR.
VERSUS
THE STATE OF WEST BENGAL AND ORS.

BEFORE:

The Hon'ble JUSTICE ARIJIT BANERJEE

AND

The Hon'ble JUSTICE APURBA SINHA RAY

Date : 22nd August, 2023.

Appearance:

Mr. Srijib Chakraborty, Adv.

Mr. Arindam Das, Adv.

Mr. Deeptangshy Kar, Adv.

For the appellants

Mr. Biswajit Mukherjee, Adv.

Mr. Subhrangsu Panda, Adv.

Ms. Manisha Nath, Adv.

...for KMC.

Ms. Tapati Samanta, Adv.

Mr. Arindam Ghosh, Adv.

....for State

Mr. Sandipan Banerjee, Adv.

Mr. Sohban Majumder, Adv.

... for Durgapur Municipal Corporation.

Mr. Sujit Sankar Koley, Adv.

.....for DPL

The Court : G.A/1/2023 is an application for condonation of delay of 119 days in presenting the appeal. We have heard learned Counsel for the parties. Although learned Advocates for the respondents opposed the prayer for condonation of delay, we are

satisfied with the explanation furnished for the delay. Accordingly, the delay is condoned. GA/1/2023 is disposed of.

By consent of the parties, the appeal being APOT/241/2023 and the application being GA/2/2023 are taken up for hearing together.

A judgment and order dated March 13, 2023, passed on the writ petition of the present appellants being WPO/299/2023, is under challenge in this appeal. The order under challenge is interim in nature in the sense that the writ petition is pending before the learned single Judge.

The appellants had approached the learned single Judge challenging the order issued by Durgapur Municipal Corporation on January 13, 2022, effectively banning the appellants from participating in future tenders floated by the Corporation.

The writ petition was filed on January 8, 2023. The learned Judge observed that the writ petitioner had approached Court more than one year after issuance of the order of the Corporation, which was under challenge in the writ petition and therefore, the writ petitioners were not entitled to any interim order. The learned Judge directed exchange of affidavits. Being aggrieved, the writ petitioners have come up by way of this appeal.

We have heard learned Counsel for the parties at some length. We do not find any infirmity in the approach of the learned

single Judge. The order impugned in the writ petition was passed in January, 2022. The writ petitioners approached the Court in February, 2023. Hence, the learned Judge rightly refused to grant any interim protection.

We also put on record that the appeal was presented belatedly. We have, however, condoned the delay of about 119 days.

We are of the view that the learned single Judge should dispose of the writ petition upon exchange of affidavits. We are told that Durgapur Projects Limited has filed its affidavit-in-opposition. In so far as the other respondents in the writ petition are concerned, they will be entitled to file affidavit-in-opposition within three weeks from date. Affidavits-in-reply thereto, if any, be filed within one week thereafter. Time granted for filing the affidavits is peremptory.

Parties will be at liberty to mention the matter before the learned single Judge having determination to hear out the writ petition upon exchange of affidavits or upon expiry of the time granted for filing affidavits.

Learned Advocate for the appellants/writ petitioners says that the hearing of the writ petition should be given some precedence. We do not pass any such order. However, the appellants may make such request to the learned single Judge,

who may consider such request to the extent the business of the Court permits.

The appeal and the connected application are disposed of.

Since we have not called for affidavits, the allegations made in the application are deemed not to have been admitted by the respondents.

[ARIJIT BANERJEE, J.]

[APURBA SINHA RAY, J.]

dg/