

09 **30.09.**
2024
Ct. No. 08

MAT 217 of 2024
IA No. CAN 1 of 2024
IA No. CAN 2 of 2024

Ab

The State of West Bengal and others
Vs.
Md. Rafiqul Islam and others.

Mr. Pinaki Dhole,
Ms. Tapati Samanta.

... for the appellants.

Mr. Shamim ul Bari,
Ms. Jhilik Singha,
Ms. Asmita Mitra.

... for the writ petitioner/respondent.

Re: CAN 1 of 2024

The affidavit-in-opposition filed by the writ petitioner/respondent and its reply filed in Court today is taken on record.

The Stamp Reporter submits a report that delay of 242 days occurred in filing the appeal.

In order to explain such delay, the instant application has been filed at the instance of the State/appellants.

Mr. Pinaki Dhole, learned Counsel appearing on behalf of the State/appellants, submits that order impugned was passed by the learned Single Bench on 3rd May 2023. The matter was thereafter taken to the District Inspector of Schools (SE), North 24-Parganas for taking decision as to whether appeal would be preferred or not. By a communication dated 17th May 2023 a requisition was sent by the said District Inspector to the Commissioner of School Education for filing an appeal against the order impugned dated 3rd March 2023. The consent of the Commissioner of School Education was received by the District Inspector of Schools on 8th September 2023 and then the matter was referred to the Legal Remembrancer, Government of West Bengal for its

legal opinion.

There was some misunderstanding in the office of the Legal Remembrancer with regard to the appointment of the State Counsel and ultimately the learned Counsel was appointed on behalf of the State on 9th January 2024.

On perusal of the certified copy of the impugned judgment, it reveals that though the impugned order was passed on 3rd March 2023 and though the Commissioner of School Education has approved the proposal of the District Inspector of Schools for filing the appeal, but within the four corners of the instant application, we find we find no reason as to what prevented the appellants/ State in applying the certified copy of the impugned order soon after passing of the impugned order or soon after obtaining consent of the Commissioner of School Education. We find that there was huge unexplained delay on the part of the State/appellants in applying the certified copy. We also noticed that the reasons for filing the instant appeal beyond the period of limitation has not been properly explained.

We are, thus, not convinced with the explanation as offered by the State in filing the instant appeal with a delay of 242 days.

Accordingly, we find no merit in the instant application. Therefore, the prayer for condonation of delay is considered and rejected. Consequently, CAN 1 of 2024 is dismissed.

In consequence thereof, the appeal and the connected application being CAN 2 of 2024 are also dismissed.

There shall, however, be no order as to costs.

(Harish Tandon, J.)

(Partha Sarathi Sen, J.)

