

25.08.2022
DL-6
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 7813 of 2017
with
IA No. CAN 2 of 2018 (Old No. CAN 4248 of 2018)
with
CAN 5 of 2021
with
CAN 6 of 2021

Sib Sankar Jana
Vs.
The State of West Bengal & Ors.

Mr. Saptarshi Basu,
Mr. Sanjib Seth,
Ms. Priyota Ganguly
....for the applicant/petitioner.

In Re: CAN 5 of 2021

This is an application for restoration of the main writ petition, being WP 7813 (W) of 2017, which was dismissed for default on 31st July, 2017, the first restoration application to restore the writ petition to its original file and number, being CAN 7551 of 2017, which was dismissed for default on 13th June, 2018 and an application, being CAN 4893 of 2018 for restoring the application, being CAN 7551 of 2017, which was dismissed for default by an order dated 24th August, 2018. It appears from the order dated 24th August, 2018 that apart from CAN 4893 of 2018 another application, being CAN 4894 of 2018, was also dismissed for default. The applicant/petitioner

has not prayed for restoration of the said application, being CAN 4894 of 2018.

On a query from Court, it is submitted that CAN 4894 of 2018 is an application for condoning the delay in making the application for restoration, being CAN 4893 of 2018. Although, the applicant/petitioner has in one application asked for restoring the main writ petition along with the two restoration applications, which were also dismissed subsequently but only one prayer at a time in the facts of the case can be allowed. Unless the order dated 24th August, 2018 is recalled and the applications, being CAN 4893 of 2018 and CAN 4894 of 2018, are restored to their original file and number, the applicant/petitioner cannot proceed to the next stage for having the other application and the main writ petition restored.

After going through the explanation given, I find that the applicant/writ petitioner was prevented by sufficient cause from appearing before the Court when the matter was taken up and ultimately dismissed for default.

The applicant/petitioner though has not asked for restoration of the application for condonation of delay, being CAN 4894 of 2018, but as a consequence of restoring the application, being CAN 4893 of 2018, the application being CAN 4894 of 2018 is also

restored to its original file and number for the ends of justice by recalling the order dated 24th August, 2018.

CAN 5 of 2021 is accordingly disposed of.

In Re: CAN 6 of 2021

Since CAN 5 of 2021 was filed on 19th April, 2021, that is, within three years from passing of the order dated 24th August, 2018 for recalling of the said order. The application for condonation of delay, being CAN 6 of 2021, is disposed of without any further order as there was no delay in filing CAN 5 of 2021.

In Re: CAN 4248 of 2018

This is also an application for restoration filed on 29th June, 2018 for restoring the writ petition by recalling the order dated 13th June, 2018 as also for restoration of CAN 7551 of 2017. The purpose for which this application was filed when considered in the context of the subsequent applications cannot be understood. This application is adjourned.

(Arindam Mukherjee, J.)