

30.09.2024
Item No.36
gd/ssd

MAT/752/2024
STATE OF WEST BENGAL
VS
SRI KALIPADA MONDAL AND ORS.
IA NO: CAN/1/2024, CAN/2/2024, CAN/3/2024

Mr. Tapan Kumar Mukherjee,
Mr. Pinaki Dhole,
Mr. Avishek Prasad
..for the Appellant.

Mr. Tapas Kumar Dey
..for the Respondent.

1. This application has been filed seeking leave to file an appeal against the order dated 06.09.2022 in WPA 16152 of 2006. There is a delay of more than 500 days in filing the appeal.

2. Under normal circumstances, the court would consider the prayer by a third party and may have been inclined to grant leave since the third party was not impleaded as a respondent in the writ petition. However, in the instant case such an approach cannot be made since the State of West Bengal was impleaded as the first respondent in the writ petition represented by the Secretary, Judicial Department. The stand taken before us by the applicant who seeks leave is that the appropriate department is the Law Department and not the Judicial Department. This contention raised by the applicant after a period of more than 500 days is

unacceptable for several reasons. Firstly, it would have been well open to the Judicial Department to come before the learned writ court and submit that they are not the answering respondent. This was not done. Rather, the learned Single Bench has recorded that no affidavit-in-opposition was filed in spite of several opportunities granted to the State.

3. Therefore, we find that the prayer sought for by the applicant to grant leave to file this appeal cannot be acceded to.

4. Hence, CAN 2 of 2024 stands dismissed.

5. Consequently, the appeal and the application for condonation of delay stand rejected.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(BIVAS PATTANAYAK, J.)