

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION  
APPELLATE SIDE**

Present:

The Hon'ble **Justice Harish Tandon**

**And**

The Hon'ble **Justice Prasenjit Biswas**

**MAT 1118 of 2024**

**With**

**CAN 1 of 2024**

**With**

**CAN 2 of 2024**

**Buddhadev Sana & Ors.**

**-Versus-**

**The State of West Bengal & Ors.**

For the Appellants : **Mr. Shonak Ghosh,  
Mr. Anindya Sundar Das,  
Ms. Kuheli Gayen.**

For the State : **Mr. Joydip Banerjee.**

Hearing Concluded on : **14.11.2024**

Delivered on : **23.12.2024**

**Prasenjit Biswas, J:-**

**In Re: CAN 2 of 2024**

**1.** This is an application seeking for condonation of delay at the behest of the petitioners/appellants in preferring this instant appeal.

**2.** It is said by the petitioners/appellants that the impugned order was passed on 17<sup>th</sup> May, 2024. An application was made for getting the certified copy of the said impugned order. As the certified copy of the impugned order was not available these petitioners filed this instant appeal after getting leave from the Court subject to undertaking that the certified copy of the impugned order would be filed immediately after the same was made available. It is further been averred by the petitioners that the concerned clerk of the Advocate on record of the petitioners had misplaced the acknowledgment slip in regard to the application for obtaining the certified copy of the impugned order and as such certified copy of the order could not be obtained on the basis of such acknowledgment slip. Thereafter application for obtaining a certified copy of the impugned order was again filed on 27<sup>th</sup> September, 2024 and the same was obtained on 4<sup>th</sup> October, 2024. So, it is said by the petitioners that they were prevented by sufficient cause in not being able to file the certified copy of the impugned order within the period of limitation.

**3.** We are not unmindful that the Court has to exercise the discretion under Section 5 of the Limitation Act on the facts of the each case keeping in mind that in construing the expression sufficient cause should be advancing

substantial justice is of prime importance . So, we find that the grounds as made in the application for condonation of delay in preferring this instant appeal is sufficient and as such there is no impediment in allowing application.

4. Accordingly application for condonation of delay in preferring the instant appeal is allowed.

5. Accordingly, CAN 2 of 2024 is hereby disposed of.

**In Re: MAT 1118 of 2024**

1. The order passed by the learned Single Bench dated 17<sup>th</sup> May 2024 passed in connection with WPA 12332 of 2024 is assailed in this appeal.

2. A notification dated 6<sup>th</sup> August, 2009 was published in a daily newspaper wherein the West Bengal Board of Primary Education invited application for filling up the vacant posts for Assistant Teacher in Government Sponsored/ Aided Primary/Junior Basic School under the District Primary School Councils of several districts in the State of West Bengal. These petitioners obtained application form along with information brochure for appointment to the post of Assistant Teachers as referred above and submitted the same before the authority. The said recruitment process was challenged by filing a writ petition by one Kakali Mondal & Ors. before this Court being WPA 20966 of 2022 (Kakali Mondal & Ors. Vs The State of West Bengal & Ors.). These appellants claiming themselves as similarly placed Candidates to the WPA 20966/2022 challenged the recruitment process as initiated by the West Bengal Board of Primary Education by filing a writ petition being No. WPA 6954 of 2021. The said writ petition was disposed of (as withdrawn) on 04.04.2021 with a leave

granted to these appellants to file a writ petition afresh on the selfsame cause of action. Thereafter these appellants did not file any writ application within the reasonable period of time and virtually it was filed after more than 3 years being WPA 12332 of 2024 which was disposed of by the learned Single Bench on 17.05.2024 by passing the impugned order.

**3.** The relevant portion of the said impugned order is quoted herein below:

*“This Court is not satisfied with the explanation given by the petitioners for not filing afresh the writ petition despite leave granted to them on 7<sup>th</sup> April, 2021 (supra)  
Hence, no relief can be granted to the petitioners. WPA 12332 of 2024 fails and hereby dismissed.”*

**4.** It is apparent from the materials on record that these appellants filed writ petition in the year 2021 and the same was disposed of as withdrawn with a liberty granted to them on 07.04.2021 to file a writ petition afresh on the self same cause of action. Thereafter these appellants/petitioners went into a deep slumber and waken up after more than 3 years by filing the writ petition being no. 12332 of 2024. We are not unmindful that the door of the temple of justice is always open to the litigants, who are due diligent to their rights to access to justice and not to the litigants who are hopelessly lethargic and lack of bona fide in approaching to the Court. The writ petition being no. 12332 of 2024 was filed by these appellants after sleeping over his right for many years to seek remedy and there is no plausible explanation as to why they have been sleeping for these years. No reasonable grounds has been assigned as to why the writ petition being no. 12332 of 2024 was filed after a prolonged period in

fact when earlier writ petition being no. WPA 6954 of 2021 was withdrawn on behalf of the appellants as there were some inadvertent mistakes in the said petitions. The learned Single Bench of this Court allowed these appellants to withdraw the earlier writ petition after giving relief to them to file afresh a writ petition on the self same cause of action but the same was filed after more than 3 years.

**5.** The appellants failed to give any satisfactory explanation for this prolonged period and also failed to substantiate any grounds which might prevent them for not preferring the same within the reasonable period of time. As such we find that there is nothing illegality or infirmity in the impugned order passed by the learned Single Bench in entertaining the writ petition being no. 12332 of 2024. So, there is nothing to interfere in the said impugned order and as such the instant appeal is liable to be dismissed.

**6.** Accordingly, the instant appeal being no. MAT 1118 of 2024 is hereby dismissed but without any order as to costs.

**7.** Consequently, the other application being CAN 2 of 2024 is also hereby dismissed.

**8.** Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

I agree.

**(Harish Tandon, J.)**

**(Prasenjit Biswas, J.)**