

M/L 63
12.08.2024
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IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 15370 of 2024

M/s. Abhishek Construction Corporation & Anr.
Versus
The State of West Bengal & Ors.

Mr. Nilotpal Chowdhury
Mr. Niladri Banerjee
Mr. Dipankar Thakur
... For the petitioners.
Mr. Rajarshi Chatterjee
....Erstwhile advocate for the petitioners

Mr. Anirban Ray, Ld. GP
Md. T. M. Siddiqui
Mr. Tanoy Chakraborty
Mr. N. Chatterjee
... For the State

Mr. Arnab Sinha
Mr. Amaryta Basu
... For the respondent no.4.

1. Affidavit of service filed in Court today is taken on record.
2. When the matter was moved on the last occasion, i.e., on 5th August, 2024, having regard to the nature of allegation made in the writ petition, this Court had directed the petitioners to serve a notice on the erstwhile advocate-on-record for him to appear before this Court when the matter is taken up next.
3. The petitioners' advocate-on-record by a letter dated 9th August, 2024 had notified the petitioners' erstwhile

advocate.

4. Let a copy of the aforesaid communication dated 9th August, 2024 be retained with the records.

5. The present writ petition has been filed under the peculiar set of facts. The petitioners complain that by an order dated 23rd June, 2023, this Court had granted liberty to the petitioners to file an appeal before the appellate authority, challenging the order dated 29th August, 2022 on the ground that the details of the order in original dated 29th August, 2022 had not been made available to the petitioners and the same was only made over in Court. Since, such order was not communicated to the petitioners by his erstwhile advocate, the petitioners could not prefer the appeal within the time specified in the order dated 23rd June, 2023. The erstwhile advocate of the petitioners is present in Court. He submits that the aforesaid order could not be communicated to the petitioners since during the relevant period when the order dated 23rd June, 2023 was passed he could not appear before this Court as he was unwell and had suffered a heart-attack. The matter was moved by his junior and that there had been communication gap which resulted in non communication of the order dated 23rd June, 2023 on the petitioners.

6. Heard the learned advocates appearing for the respective parties and considered the materials on record.
7. Taking into consideration the peculiar facts of the present case, I am of the view that the petitioners should not be made to suffer in this case for no fault of their own.
8. In view thereof, I permit the petitioners to prefer an appeal before the appellate authority. In the event, the petitioners prefer an appeal before the appellate authority from the order dated 29th August, 2022, within a period of two weeks from date, the appellate authority having regard to the facts of this case, shall by condoning the delay, hear out and dispose of the appeal on merits, subject to compliance of other formalities, as expeditiously as possible, preferably within a period of eight weeks from the date of communication of this order.
9. With the above observations and directions, the writ petition is disposed of.

Urgent Photostat certified copy of this order, if applied for, be made available to the parties upon compliance of requisite formalities.

(Raja Basu Chowdhury, J.)