

16
24.09.2024
Ct. No. 11
rrc

WPST 166 of 2024
(Afroja Begum Vs. The State of
West Bengal & Ors.)

Mr. Tulshi Das Maiti
Mr. Pradip Kumar Ghosh
Ms. Namita Basu

..... For the petitioner

Mr. Tapan Kr. Mukherjee, Ld. AGP
Ms. Ashmita Chakraborty

..... For the State respondents

This present writ petition has been instituted challenging an order dated 8th July, 2024, whereby the learned Tribunal refused to restore the Original Application (in short, OA), being OA 991 of 2018 to its original file and number.

Mr. Maiti, learned advocate representing the petitioner, submits that after the hearing of the OA on 6th May 2022, the matter was scheduled to appear on 15th July 2022, but it was not listed on that date. Upon inquiry, he learned that the matter was dismissed for default due to the non-appearance of the learned advocate for the applicant on 3rd August, 2023, when the OA was last heard.

Drawing our attention to an Information Slip and certain order sheets, he argues that upon inquiry, it was discovered that instead of 15th July 2022, the matter was listed on 18th July 2022. Subsequently, it was listed again on 2nd February 2023 and 26th July 2023, before the OA was dismissed for default on 3rd August 2023. He contends that immediately thereafter, the

petitioner filed two applications: one for the restoration of the OA and another for the condonation of delay in filing the restoration application.

He submits that by an order dated 8th July 2024, the learned Tribunal condoned the delay in filing the application for restoration but ultimately dismissed the restoration application, refusing to accept the explanation provided.

He further submits that there was no intentional laches on the part of the petitioner; rather, despite specific directions, the matter was not listed on 15th July 2022, misleading the petitioner and causing them to lose track of the carriage of proceedings of the OA.

Mr. Mukherjee, learned Additional Government Pleader, submits that the petitioner should have been more vigilant and pursued the proceeding diligently.

Heard the learned advocates appearing for the respective parties. Perused the materials on record.

As noted earlier, after conclusion of hearing of the OA on 6.5.2022, the OA was scheduled to appear on 15th July 2022, but it was not listed on that date. Instead, the OA was listed on 18th July 2022. Subsequently, it was listed again on 2nd February 2023 and 26th July 2023, before being dismissed for default on 3rd August 2023. The petitioner in her application for restoration averred that due to these reasons, she was misled and lost track of the proceedings. Based on this explanation, the petitioner seeks the restoration of the OA to its original file and number.

Having regard to the facts and circumstances of the case and considering the materials on record, we are of the view that

the explanation provided in the application for restoration justifying the absence of the petitioner and/or her learned advocate constitutes sufficient cause for their failure to appear before the Tribunal on 3rd August 2023, when the OA was taken up for hearing.

In view of the above, the order dated 8th July 2024, whereby the application for restoration was dismissed, is set aside, and the OA is restored to its original file and number. The learned Tribunal is directed to dispose of the OA on merit as expeditiously as possible, without granting any unnecessary adjournments to either party.

We have been informed that the petitioner is an octogenarian, having reached the age of 80. In light of this, the learned Tribunal is requested to prioritize this matter over others, if possible.

With these observations and order, the writ petition is, thus, disposed of. However, there shall be no order as to costs.

All parties shall act on the service copies of this order duly downloaded from the official website of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)