

26.09.2024
Court No.13
Item No.38
pk

F. A. T. 440 of 2016
IA No:CAN 3 of 2019(Old CAN 410 of 2019)

State of West Bengal and another
Vs.
Digendra Narayan Chowdhury

Mr. Lalit Mohan Mahata,
Mr. P. B. Mahata,
Mr. Ziaul Haque
... for the appellants/State.

Mr. Rahul Karmakar,
Mr. Arnab Sardar
... for the respondents.

Re: CAN 3 of 2019 (Restoration)

1. Sufficient grounds are available to explain the absence of the petitioner and/or his Counsel on 17.12.2018.
2. The said order is recalled.
3. Accordingly, CAN 3 of 2019 is disposed of.
4. There will be, however, no order as to costs.

Re: FAT 440 of 2016

1. It is informed that the respondent no. 1 in the appeal has died. The appeal has, therefore, abated.
2. The appeal is filed with a delay of 1445 days. To explain the delay and seek condonation, CAN 8745 of 2016 has been filed. There is no explanation as to when the order dated 27.02.2012 was received by whom and who sent the order to the Government Pleader, Malda for legal opinion. The next serious infirmity is that there is no explanation as to the

delay between 17.10.2012 and 22.04.2013 at the Office of the Principal Secretary, Government of West Bengal. It appears that the Government Pleader opined for payment in respect of LA Case No. 30-35 of 2007 on 10th June, 2015. There as to why the Government Pleader has chosen to recommend an appeal in the instant case is not explained. The entire delay therefrom till 2nd August, 2016 and until 22nd August, 2016 remains unexplained and is extremely vague.

3. It appears to this Court that filing of the appeal has been deliberately and willfully delayed by the officials of the State. The learned advocate for the State appears to have acted promptly.

4. This Court finds absolutely no reason to condone the delay of 1445 days. This Court is also to be informed that the appeal may have otherwise abated since the only respondent has died.

5. CAN 8745 of 2016 is dismissed.

6. Consequently, the instant appeal and the connected application, if any, are also dismissed.

7. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)