

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
APPELLATE SIDE**

52 02.5.2024

Ct-01

**MAT 10 of 2023
with
IA No. CAN 1 of 2023
CAN 2 of 2023**

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**The Commissioner, Siliguri Municipal Corporation
Vs.
Banibrata Bhowal & Ors.**

Mr. Ayan Banerjee
Ms. Deborshi Dhar
... For the Appellant

Mr. Dwaipayan Basu Mallick
Mr. Arkaprava Sen
Ms. Supriya Singh
Mr. Sayantan Kar
... For the Respondent no. 1

Re: CAN 2 of 2023(Section 5)

1. We have perused the revised report of the Stamp Reporter which shows that there was a delay of 409 days in filing the instant appeal.
2. In course of submission, learned counsel appearing for the appellant submits before this Court that though the impugned order was passed by the learned Single Judge in presence of the learned counsel for the appellant, but for some reason or other due to miscommunication of the conducting advocate, the order could not be communicated to the present appellant i.e. the Commissioner, Siliguri Municipal Corporation. It is further submitted that thereafter COVID

intervened and when the contempt petition was filed for non-compliance of the order impugned the present appellant being the Commissioner, Siliguri Municipal Corporation came to learn about the passing of the impugned order and thereafter steps have been taken for filing the instant appeal for which the aforementioned delay has been caused.

3. Per contra, learned counsel for the respondent no. 1, submits before this Court that the submission as made by the learned counsel for the appellant is contrary to the truth and a flimsy ground has been made on behalf of the appellant to suit their purpose.

4. We have meticulously perused the materials including the revised report of the Stamp Reporter. We are convinced with the explanation offered for condoning the delay in filing the instant appeal. Accordingly, the application for condonation of delay is thus allowed without any order as to costs.

5. CAN 2 of 2023 is thus disposed of.

Re: MAT 10 of 2023

1. In view of the fact that the Commissioner, Siliguri Municipal Corporation, has in the mean time complied with the order in obedience to the order of the learned Single Judge and the same

has been recorded in the contempt proceeding,
the appeal in law is not maintainable.

2. MAT 10 of 2023 is thus dismissed along with
CAN 1 of 2023.
3. We make it clear that we have not gone into the
merits of the order passed by the Commissioner
in purported compliance of the order passed by
the learned Single Judge in WPA 148 of 2019 on
06.9.2019.
4. There will be no order as to costs.
5. Urgent Photostat copy of this order, if applied
for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)

