

27 **14.02.**
2025
Ct. No. 08

ab

MAT 66 of 2025
IA No. CAN 1 of 2025
IA No. CAN 2 of 2025

Smt. Krishna Rani Halder
Vs.
The State of West Bengal and others.

Mr. Shuvro Prokash Lahiri.
... for the appellant.

Mr. Pinaki Dhole,
Mr. Avishek Prasad.
... for the State.

Mr. Sourav Mitra.
... for the WBCSSC.

Mr. Susanta Pal.
... for the respondent no. 7.

Re: CAN 1 of 2025

This application was taken out seeking condonation of delay of 109 days in preferring the proposed appeal.

Learned Advocate representing the petitioner/appellant submits that there was no intentional laches and/or negligence on the part of the petitioner/appellant. He argues that a good arguable case has been presented in this appeal. According to him, such a meritorious matter should not be dismissed at the outset.

Learned Advocates for the respective respondents opposes such submissions advanced on behalf of the petitioner/appellant. It was further contended that the delay has not been sufficiently explained.

Before addressing the explanation offered in paragraphs 3 and 4 of the application to justify the delay in filing the present appeal, it would be appropriate to reproduce the

averments made in those paragraphs, which are as follows:

“3. Your appellant/petitioner states that upon obtaining considered opinion from the learned advocate, the appellant instructed the learned advocate to prefer an appeal against the order dated August 29, 2024 as the same is not in consonance with the provisions of law. That the learned advocate took few days to prepare the Mandamus Appeal and upon due verification and perusal of the same finally the appeal was filed on 15.1.25 after 107 days from the admissible period of limitation.

4. Your appellant/petitioner states that Puja vacation of the Hon’ble High Court of this year commences from 9th October, 2024 and continues till 3rd November, 2024 (26 days) and for such reason in between the period of Puja vacation, the appellant/petitioner could not move the instant appeal due to closure of the Hon’ble Court.”

It is axiomatic that a day-to-day explanation from the applicant seeking condonation of delay in filing an appeal or application is not expected. However, the explanation for the delay must be plausible and acceptable. In the present case, the order sought to be challenged in this appeal was passed on 29th August 2024, and the Memorandum of Appeal was filed in Court on 15th January, 2025.

In paragraph 4 of the instant application, it was merely contended that due to the Puja Vacation, which commenced on 19th October, 2024 and lasted until 3rd November, 2024, the

petitioner/appellant was unable to file the appeal within the statutory period of limitation. Thus, on perusal of the averments made in those two paragraphs suggest that there was no plausible explanation justifying the delay in preferring the appeal.

It is averred in paragraph 3 of the instant application that after seeking an advice from the learned Advocate to prefer an appeal, the said learned Advocate consumed considerable period of time in filing the same. The aforesaid statement does not hold water for the simple reason that once the opinion was expressed immediately after the order is passed to prefer an appeal, the certified copy, which was applied only on 2nd January ,2025 and was made ready for delivery on 13th January 2025. The story, which is set up to cover the laches and negligence on the part of the appellant, is an afterthought and, therefore, the Court should not go simply on the ipse dixit of the submission that the meritorious matter should not be nipped in the bud only on the anvil of limitation.

It is well-settled that the delay in filing an appeal cannot be condoned merely upon request. The applicant or appellant seeking condonation must demonstrate a sufficient cause for the delay. Unless the Court is satisfied, after due consideration, that the explanation provided is both sufficient and adequate, it would not be proper to expose the opposing party, who may have acquired certain rights due to the delay or negligence, to unnecessary litigation or deprivation.

Since the explanation provided has been found insufficient, and it has been determined that the delay was not

adequately explained, the application for condonation of delay is hereby dismissed. Consequently, the appeal, along with the connected application (CAN 2 of 2025), is also dismissed.

(Harish Tandon, J.)

(Partha Sarathi Chatterjee, J.)