

21st August,
2025
(AK)
08

**W.B.L.R.T 7 of 2011
IA No: CAN 4 of 2023
CAN 5 of 2025**

Md. Soleman, since deceased, representatives by his legal
heirs Taslema and others
Vs.
The State of West Bengal and others

Mr. Shyamal Chakraborty
Mr. Debajyoti Mondal
Ms. Manju Jaiswal
Mr. Swastik Polley
Mr. Achintya Mukherjee
...for the petitioners.

Mr. Supratim Dhar
Mr. Debasish Chakraborty
...for the State.

In Re: CAN 5 of 2025

1. CAN 5 of 2025 is an application for substitution of the heirs and legal representatives of the sole writ petitioner, who met his demise on May 23, 2025.
2. Since the application is otherwise in form and in time, CAN 5 of 2025 is allowed, thereby directing the applicants as mentioned in the cause title of the present application to be substituted in place and stead of the deceased sole writ petitioner as petitioners in the present writ petition.

3. The necessary consequential corrections to the cause titles of the writ petition as well as CAN 4 of 2023 shall be carried out by the learned Advocate-on-record of the writ petitioner during the course of the day.

In Re: CAN 4 of 2023

4. CAN 4 of 2023 is taken up for hearing.
5. Although the application has been filed after about two months from the date of the dismissal for default, no specific prayer for condonation of delay has been made in the prayer portion.
6. Learned counsel for the State opposes the application and submits that this was the second occasion on which the writ petition was dismissed for default and the same has not been disclosed in the application.
7. It is further submitted that in the absence of any prayer for condonation, the court ought not to allow the restoration application simpliciter.
8. Upon hearing learned counsel for the parties, we find that, indeed, the prior dismissal for default has not been mentioned in the application.
9. We deprecate such practice of the litigants. The writ petitioner should have brought the said fact to the notice of the court.
10. However, considering that the original writ petitioner, during whose lifetime the application for

restoration was filed, was an agriculturist by occupation and must have been a layman in law, coming from the marginalized sections of society, we adopt a lenient view and are of the opinion that the minimum period of delay of about one and half months ought to be condoned.

11. Regarding the other objection, we deem, in view of sufficient explanation for the delay having been furnished in the body of the petition, that the prayer for restoration implicitly includes the prayer for condonation of delay in making the same as well, since there cannot be a restoration in terms of the prayer unless the delay in filing the restoration application is condoned first.
12. Accordingly, CAN 4 of 2023 is allowed, upon condonation of delay in filing the said application, thereby recalling the order dated October 3, 2023 passed in WBLRT 7 of 2011 along with the connected applications bearing CAN 2 of 2012 (Old No: CAN 9035 of 2012 and CAN 3 of 2019 (Old No: CAN 6690 of 2019)).
13. Consequentially, the writ petition as well as the aforesaid applications are restored to their original file and number.
14. Interim order, if any, subsisting on the date of the dismissal for default stands revived from this date.
15. There will be no order as to costs.

16. The writ petition be listed on August 25, 2025 for hearing.

(Sabyasachi Bhattacharyya, J.)

(Uday Kumar, J.)