

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

Present :

The Hon'ble Chief Justice T. S. Sivagnanam

And

The Hon'ble Justice Chaitali Chatterjee (Das)

MAT/248/2025
STATE OF WEST BENGAL AND ORS.
VS
BIRESWAR BISWAS
IA NO: CAN/1/2025, CAN/2/2025

For the appellants :- Mr. Lalit Mohan Mahata

For the Respondent :- Ms. Gopa Biswas
Ms. Payel Shome

Heard on : 01.07.2025.

Judgment on : 01.07.2025.

T. S. SIVAGNANAM, CHIEF JUSTICE.:

Re: CAN 1 of 2025

1. This application has been filed by the appellants seeking condonation of delay of 130 days in filing this appeal.

2. Learned counsel for the appellants have referred to the explanation which has been furnished in the application and also has made submission in respect of the explanation for the delay.

3. We find that the delay in filing this appeal has been sufficiently explained and the appellants were prevented from filing the appeal within time on account of bona fide reason.

4. Hence, CAN 1 of 2025 is accordingly, allowed. The delay in filing the appeal is condoned.

Re: MAT 248 of 2025

5. This intra court appeal has been filed by the State challenging the order dated 13th September, 2024 in WPA 9830 of 2021 by which the writ petition filed by the respondent herein was allowed issuing certain directions.

6. From the impugned order it is seen that despite direction being given to file affidavit-in-opposition the State did not file the

affidavit-in-opposition and they did not appear and, therefore, based on the available material the learned writ court has disposed of the writ petition.

7. The learned advocate appearing for the appellants/State has placed certain facts to state that the direction issued in the impugned order is not feasible of implementation since the writ petitioner was given contractual appointment for only a period of six months and thereafter the post which was sanctioned was filled up by following the recruitment process.

8. The learned advocate appearing for the respondent submitted that the stand taken by the State Government that the writ petitioner working only for six months is factually incorrect as she has not been working for nearly 18 years.

9. However, this aspect was never brought to the notice of the learned Single Bench and we cannot test the correctness of the order passed by the learned Single Bench on the basis of the facts which are now being placed before this court in this appeal for the first time.

10. Therefore, the only option available to the appellants/State is to seek the review of the order before the learned Single Bench.

11. Accordingly, the appeal stands disposed of leaving it open to the appellants/State to seek for review of the order passed by the learned Single Bench, if they so desire.

12. The original certified copy of the impugned order be returned.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(CHAITALI CHATTERJEE (DAS), J.)

Item No.10
gd/ssd