

25.08.2025
Court No.13
Item No.12
AP

MAT 349 of 2016
With
CAN 1 of 2016 (Old No: CAN 2999 of 2016)
With
CAN 2 of 2016 (Old No: CAN 3000 of 2016)

The State of West Bengal & Anr.
Vs.
Sandip Kumar Paul & Ors.

Mr. Susanta Pal
Mr. Ananda Dulal Sarkar

... For the Appellants.

Re.: CAN 2 of 2016 (Old No: CAN 3000 of 2016)

1. CAN 2 of 2016 (Old No: CAN 3000 of 2016) has been filed seeking condonation of delay of 143 days in filing the appeal.
2. Having regard to the pleadings made in the instant application explaining such delay and given the importance of the matter in appeal, this Court is inclined to condone the delay.
3. Accordingly, CAN 2 of 2016 (Old No: CAN 3000 of 2016) is allowed.

Re.: MAT 349 of 2016
With
CAN 1 of 2016 (Old No: CAN 2999 of 2016)

4. The appeal is directed against a judgement and order dated 14th August, 2015 passed by a Single Bench of this Court. By reason of the said order, the Single Bench set aside a decision of the Director of Employment, West Bengal dated 20th November, 2013 which disbelieved a

certificate dated 15th April, 2000 issued by the Chairman, Borough XII of the Kolkata Municipal Corporation, one Sri Ganesh Guha Thakurta. The certificate was issued by the said Ganesh Guha Thakurta to certify that the appellant worked enumerator for houselisting operation and census works of the Census of India 1991.

5. Yet another similar certificate issued by the same Ganesh Guha Thakurta came up for consideration before the Hon'ble Supreme Court in Civil Appeal No.7327 of 2016 [***State of West Bengal Vs. Kalyani Samanta (Mondal)***] dated 1st September, 2021. The Supreme Court clearly stated that a certificate in similar words issued by the same person could not have been relied upon by the Director of Employment since no records of census enumerators were available for the census of the year 1991. The said certificate was further disbelieved on the ground that the role, performance and nature of duties performed by the enumerator, was not indicated by the certifier.

6. It was also found that such certificates are normally issued by the Director of Census who supervised the work of the census enumerators.

7. In terms of the notification of the State dated 19th November, 1999 it was found that only the Director of Census Operation was authorised to issue certificates of engagement and performance of such enumerators along

with experience certificate for the city of Howrah and Kolkata.

8. Applying the test laid down in the decision of ***Kalyani Samanta (Mondal) (supra)*** as applied by another coordinate Bench of this Court in the case of ***The State of West Bengal Vs. Tulasi Dey*** reported in ***2022(2) CHN (CAL) 1***, this Court is of the clear view that the certificate dated 15th April, 2000 was rightly rejected by the Director Census.

9. The findings and reasoning of the Single Bench contradict the dicta of the Supreme Court in the case of ***Kalyani Samanta (Mondal) (supra)*** as relied upon by a coordinate Bench of this Court in the case of ***Tulasi Dey (supra)***.

10. For the reasons sated hereinabove, the judgement and/or order dated 14th August, 2015 shall stand set aside.

11. Accordingly, MAT 349 of 2016 is allowed. Consequently, connected application being CAN 1 of 2016 (Old No: CAN 2999 of 2016) is disposed of.

12. 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.)