

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Debangsu Basak

And

The Hon'ble Justice Md. Shabbar Rashidi

M.A.T. 545 of 2025

Tamal Sarkar & Ors.

vs.

The Union of India & Ors.

With

CAN 1 of 2025

CAN 2 of 2025

For the Appellants

: Mr. S.P. Dalapati
Mr. Asumdipta Santra
Mr. Rahul Chatterjee

For the Union of India

: Mr. Dhruv Surana

For the Respondent

Nos. 3 & 4

: Mr. Somnath Gangopadhyay

Heard & Judgment on

: May 14, 2025

DEBANGSU BASAK, J.:-

1. CAN 2 of 2025 is an application under Section 5 of the Limitation Act, 1963

seeking condonation of delay of 4 days in making and filing of the appeal.
2. Respondents are represented.

3. Delay is sought to be explained on the ground of mistake in calculating the period of limitation by the learned advocate.
4. It is trite law that a litigant need not suffer due to the mistakes of an advocate. Mistake apparently is bona fide.
5. In such circumstances, we accept the causes shown in the application for condonation of delay. Delay is condoned.
6. CAN 2 of 2025 is allowed.
7. By consent of the parties, the appeal is taken up for final hearing.
8. It is submitted at the bar that the impugned order was passed without permitting the parties an opportunity to file affidavits.
9. Challenge in the writ petition relates to a letter issued by the respondent no. 2 in respect of a contract which was entered into between the writ petitioner and the respondent no. 2 eight years ago.
10. Respondent no. 2 is an authority within the meaning of Article 12 of the Constitution of India.
11. Whether or not, the impugned letter of the respondent no. 2 is arbitrary is required to be decided in the writ petition. According to the respondent no. 2, the steps were taken in accordance with law. In support of such contention, respondent no. 2 seeks to rely upon various documents.

12. In such circumstances, it would be appropriate to set aside the order impugned since the same was passed without affording the parties one opportunity of filing of affidavits.
13. Impugned order dated March 10, 2025 is set aside.
14. W.P.A. 31090 of 2024 is remanded for hearing before the learned Single Judge.
15. Let affidavit-in-opposition to the writ petition be filed within two weeks after reopening of the Court. Reply thereto, if any, be filed within two weeks thereafter.
16. The parties are at liberty to mention before the learned Single Judge for an early hearing.
17. M.A.T. 545 of 2025 and the connected application being CAN 1 of 2025 are disposed of without any order as to costs.

(Debangsu Basak, J.)

18. I agree

S.D.

(Md. Shabbar Rashidi, J.)