

Item No.84
26.06.2025
Court. No. 19
GB

W.P.A. 9595 of 2024

Md. Jafrul Khan
Vs.
The State of West Bengal & Ors.

Mr. Soumik Ganguli

...for the Petitioner.

*Mr. Pantu Deb Roy,
Mr. Pannalal Bandopadhyay*

...for the State.

1. The affidavit-of-service as filed today is taken on record.
2. Liberty is given to the learned advocate for the writ petitioner to add the Divisional Commissioner, Medinipur Division as respondent no.5, positively in course of this day in Court.
3. The subject matter of challenge in the instant writ petition is the order dated 10.05.2023 as passed by the added respondent no.5 whereby and whereunder the said added respondent no.5 declined to entertain the review petition as filed by the writ petitioner basically on the ground of delay in filing such review.
4. In course of his argument, Mr. Ganguly, learned advocate appearing on behalf of the writ petitioner at the very outset draws attention of this Court to page no.49 of the instant writ petition, being a copy of the order dated 08.04.2019 as passed by the competent authority whereby and whereunder the said competent authority has imposed a fine of Rs.1,00,000/- upon the writ petitioner allegedly on

the ground of using his vehicle for another mode of operation.

5. At this juncture, Mr. Ganguly again draws attention of this Court to page no.91 of the instant writ petition being a copy of the order dated 05.01.2022 passed by the added respondent no.5 authority whereby and whereunder the appeal preferred by the writ petitioner against the aforesaid order dated 08.04.2019 was also not considered favourably by the said added respondent no.5.
6. It is submitted by Mr. Ganguly that from the order under challenge dated 10.05.2023 the added respondent no.5 declined to entertain the review petition as filed by the writ petitioner basically on the ground of delay in filing the said review petition without visualizing that the writ petitioner was prevented from sufficient cause from filing the said review petition within the prescribed period of limitation.
7. It is further submitted by Mr. Ganguly that from the order dated 05.01.2022 as passed by the added respondent no.5 it would reveal that the added respondent no.5 authority mechanically endorsed the view of the competent authority without applying his independent mind and, therefore, the said added respondent no.5 ought not to have gone into the technicality of the period of limitation and ought to have considered the review purely on merit.

8. Such contention is opposed by Mr. Deb Roy, learned advocate appearing on behalf of the respondent State. It is submitted by Mr. Deb Roy that since the review petition was filed beyond the period of limitation, by no stretch of imagination it can be said that the order under challenge is patently illegal.
9. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court considers that while passing the order under challenge dated 10.05.2023 the added respondent no.5 authority failed to visualize the predicament of the writ petitioner in filing the review within the statutory period of limitation.
10. It further appears to this Court that while passing the order dated 05.01.2022 in appeal the said respondent no.5 made no venture to make any observation with regard to the adequacy of the fine amount as imposed by the competent authority vide order dated 08.04.2019.
11. On careful consideration of the entire materials as placed before this Court and after hearing the learned advocates for the contending parties, this Court finds no much reason to interfere with the factual findings of the competent authority as arrived by him vide its order dated 08.04.2019. However, it appears to this Court that the quantum of fine as imposed upon the writ petitioner is bit exorbitant.

12. This court, thus, while disposing the instant writ petition reduces the quantum of penalty to the tune of Rs.25,000/- which is payable by the writ petitioner positively within 15 working days from the date of passing of this order in the treasury and on production of the payment challan of Rs.25,000/- the respondent no.4 authority shall release the vehicle of the writ petitioner within 7 days thereafter, after compliance of due formalities by the writ petitioner.
13. The time limits as fixed by this Court are mandatory and peremptory.
14. Liberty is given to the learned advocate on record for the writ petitioner to communicate the server copies of this order to the respondent nos.4 and 5 forthwith.
15. The respondent nos.4 and 5 are directed to act on the basis of the server copy of this order.
16. With the aforementioned observation, the instant writ petition being WPA 9595 of 2024 is disposed of.
17. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Partha Sarathi Sen, J.)