

D/L.15.
April 22, 2025.
MNS.

FAT No. 494 of 2019
+
CAN 4 of 2025

The State of West Bengal
Vs.
Sova Purkait

Mr. Rabindra Narayn Dutta,
Mr. Hare Krishna Haldar

... for the appellant.

Mr. Debayan Bera,
Mr. Sakti Prasad Chakraborti

...for the respondent.

Re : CAN 4 of 2025 (appropriate order)

1. The present application has been filed for condonation of the delay in payment of costs of Rs.5,000/-, which was directed by a co-ordinate Bench vide order dated May 12, 2022 as condition for condonation of the delay in preferring the appeal.
2. Furthermore, by the self-same order, the appellant was also directed, as condition of stay, to deposit the awarded amount with the learned Registrar General of this Court.
3. Learned counsel appearing for the appellant contends that due to unavoidable facts and circumstances and for the reasons as described in the application, the costs could not be paid by the State/appellant.

4. After a thorough perusal of the application for condonation of delay, however, we do not find a single reason having been made out to show the *bona fides* of the State/appellant in depositing the costs of Rs. 5,000/-, which was directed to be deposited with the High Court Legal Services Committee within a week from May 12, 2022, to be used for the welfare of the children in the correctional homes in the State of West Bengal.
5. In fact, in the said order, it was categorically mentioned that failing the said deposit in terms of such order, the appeal would stand dismissed without any further reference to the Court. As such, the dismissal of the appeal as time-barred was automatic in the event of non-payment of the costs within a week from May 12, 2022.
6. Even thereafter, the State/appellant adopted an utterly negligent attitude in not taking any steps for putting in the deposit for almost three long years. Such gross negligence is unpardonable.
7. Two principles of law come into play in the present matter. First, that the State or any authority for that matter is not a favoured litigant, and secondly, that if the applicant in an application for condonation of delay is palpably negligent, the benefit of Section 5 of the Limitation Act cannot be accorded to such a litigant.

8. In such view of the matter, CAN 4 of 2025 is dismissed on contest without any order as to costs.
9. Accordingly, FAT No. 494 of 2019 stands *non est* in the eye of law, being time-barred.
10. In such view of the matter, the interim order granted in the appeal also stands vacated.
11. Accordingly, the respondent will be at liberty to proceed with the connected execution case and if so proceeded with, the executing court shall make all endeavour to dispose of such execution case at the earliest.

(Uday Kumar, J.)

(Sabyasachi Bhattacharyya, J.)