

Item-
12. 03-04-2025

MAT 1855 of 2024
CAN 1 of 2024
CAN 2 of 2024

sg

Ct. 8

Debasmita Basu
Vs.
Koushik Roy,
District Inspector of Schools (S.E.),
Malda & Ors.

Mr. Ujjal Ray
Mr. Atreya Chakraborty
... for the appellant
Mr. Sourav Mitra
...for CSSC
Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
...for the State

In Re: CAN 2 of 2025

1. This is an application for condonation of delay. There is a delay of 431 days in preferring the instant memorandum of appeal.
2. Sufficient cause being shown for not being able to present the instant memorandum of appeal within the period of limitation, the delay of 431 days in filing the appeal is condoned. Prayer for condonation of delay is allowed.
3. CAN 2 of 2024 is, accordingly, disposed of.

In Re: MAT 1855 of 2024 with CAN 1 of 2024

4. The appeal is arising out of an order dated 16th June, 2023 passed by a learned Single Judge in a contempt jurisdiction.
5. Mr. Ujjal Ray, learned Counsel for the appellant, has

submitted that the learned Single Judge has travelled beyond the jurisdiction in disposing of the contempt application and has relied upon two decisions of this Hon'ble High Court i.e. (i) *MAT 1502 of 2023 (Shipra Barikdar vs. Siddhartha Mazumder & Ors.)* passed on 11th December, 2023 and (ii) *MAT 2464 of 2023 (Rupak Mandal vs. Sk. Hossain Ali & Ors.)* passed on 29th July, 2024, in support of his submission.

6. The learned Counsel for the alleged contemnor has submitted that the State has left no stone unturned to implement the order and has filed a report before the learned Single Judge on the basis of which, the contempt application was disposed of.
7. Mr. Sourav Mitra, learned Counsel appearing for the Central School Service Commission has submitted that it has not received any application in terms of the notification dated 21st December, 2021 and by reason whereof, the Central School Service Commission is unable to take a decision on the said issue.
8. It is, however, not in dispute that in terms of the notification of 21st December, 2021, the application of the petitioner ought to have been processed within two weeks from the date of receipt of the application. The alleged contemnor, in our view, ought to have approached the learned Single Judge either for extension of time to comply with the order or for modification of the order dated 25th August, 2022 disclosing the reasons for not being able to comply with the order or the reason for

modification as the case may be.

9. The grievance of the petitioner appears to be the direction passed in paragraph 5 of the impugned order. Paragraph 5 of the said order is reproduced hereinbelow:

“In addition to the above, since after the recent rationalization principles implemented by the State where more than 8000 Schools have been found with lesser number of students and more teachers, the District Inspector of Schools (SE), Mala may consider posting of any teacher from the aforesaid list of that Schools, subject to the latter’s consent, in place of the petitioner upon the petitioner being transferred.”

10. We read the said paragraph not in the way the learned Counsel for the petitioner wants us to read as an exercise of jurisdiction that is contemplated under the Contempt of Courts Act.

11. According to us, the said paragraph only says that there has been no willful or deliberate violation of the order passed by the learned Single Judge. However, the matter remains that the writ petitioner is still in the Institution where she had been working since 2013 and having regard to the fact that she was able to make out a case for transfer, the District Inspector of School (S.E.), Malda is directed to make all endeavour so that a suitable school can be found out for the teacher preferably within a period of four months from date.

12. With the aforesaid direction, the appeal and the stay petition are disposed of.

13. Affidavit-in-reply of the appellant against the affidavit-

in-opposition to the application for condonation of delay
is taken on record.

14. Urgent Photostat certified copy of this order, if applied
for, be supplied to the parties upon compliance of all
requisite formalities.

(Soumen Sen, J.)

(Smita Das De, J.)