

Item No. – 71  
**18.03.2025**  
Rohan  
Court No. 8

**In the High Court at Calcutta  
Civil Appellate Jurisdiction  
Appellate Side**

**MAT 2021 OF 2024  
with  
I.A. No.: CAN 1 of 2024**

**Sk. Rezaul Karim  
Versus  
State of West Bengal & Ors.**

**Mr. Firdous Samim,  
Ms. Gopa Biswas,  
Ms. Payel Shome.**

**... for the appellant**

**Mr. Biswabrata Basu Mallick, Ld. AGP,  
Mr. Biman Halder.**

**... for the State**

**Mr. Atis Kumar Biswas,  
Mr. Suman Chakraborty.**

**... for the respondent No. 12**

**In Re.: CAN 2 of 2025**

1. This is an application for condonation of delay in filing the instant appeal beyond the statutory period of limitation provided therefor.
2. The note put on the reverse of the page of memorandum of appeal indicates that there is a delay of 43 days in preferring the instant appeal.
3. We had an occasion to peruse the explanation given in the application for condonation of delay which we found to be sufficient. The statements made in the application are indicative of the fact that the petitioner was all along diligent in pursuing his remedy but the reason occasioning the delay was beyond his control.

We, thus, condone the delay in filing the instant appeal.

4. The application being CAN 2 of 2025 is hereby allowed.
5. The office is directed to register the appeal.

**In Re.: MAT 2021 of 2024**  
**with**  
**CAN 1 of 2024**

6. After noticing the impugned order, we invited the appearing counsels to address us on the merit of the instant case.
7. It is submitted by the counsel for the appellant that the earlier writ petition, in which the direction for consideration of the representation was passed, was based upon a different set of facts, which cannot be equated with the facts and the issues involved in the instant writ petition. It is, thus, submitted that the Single Bench, on wrong appreciation of the fact, proceeded to dispose of the writ petition without granting the substantial relief as prayed for.
8. The counsel for the State submits that the instant writ petition was rightly dismissed by the Single Bench as the writ petitioner is raising identical and similar grievances to the grievances raised in the earlier round of litigation.
9. The counsel for the respondent No. 12 vehemently submits that there are serious allegations against the writ petitioner and any order permitting him to join the post shall have a cascading effect not only on the administration of the school but also on the students thereof.
10. Undisputedly, the petitioner was discharging the duty as Superintendent of Pirnagar Nabobiya Madrasah, District – Hooghly, and was prevented from discharging

the duty because of serious issues having raised against him. The issues have been raised to the higher official but no decision has been taken as of now. The earlier writ petition was disposed of directing the authorities to consider and take a decision on the representation made by the writ petitioner but no such decision has yet been taken. Since the writ petitioner was unable to discharge the duties in such capacity, an application for transfer was made to a competent authority which is again kept in suspended animation. Feeling aggrieved by the inaction on the part of the authority in not taking any decision on the said application for transfer, the writ petition came to be filed seeking a principle relief for consideration of the said application for transfer by the competent authority. The ancillary and incidental release are also claimed in the form of an order to permit him to discharge his duties to which we feel would not subserve the purpose because of many issues relating thereto.

11. Considering the fact that the instant writ petition was filed for inaction on the part of the authority in not taking a decision on an application for transfer, the writ petition ought not to have been disposed of without granting substantial relief. It is not appreciable that the authority would sit tight over the matter, more particularly, when an application for transfer so made, is strictly in conformity with the statutory provisions and keep the fate thereof indecisive.
12. We, therefore, modify the order impugned in the instant appeal to the extent that the respondent No. 2 is directed to consider an application for transfer filed by the writ petitioner and take a decision thereupon within four weeks from the date of communication of the order.

13. It goes without saying that the said decision shall be communicated to the petitioner immediately for future course of action. The time frame in the instant order is preemptory and mandatory.
14. Both the appeal being **MAT 2021 of 2024** and the application being **CAN 1 of 2024** are **disposed of**.
15. No order as to costs.
16. Urgent Photostat certified copy of this order, if applied for, be given to the parties upon compliance with all requisite formalities.

**(HARISH TANDON, J.)**

**(OM NARAYAN RAI, J.)**