

S/L 6
31.10.2025
Court No.1
AJ

CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION

MAT 83 of 2025

I.A. No: CAN 1 of 2025
CAN 2 of 2025

In WPA 24 of 2025

The State of West Bengal & Ors.
Vs.
Md. Matiur Rahaman & Anr.

*Mr. Sirsanya Bandyopadhyay, Ld. Sr. Govt. Adv.,
Mr. Nabankur Paul,
Mr. Arka Nag.
...for the appellants/petitioners.*

*Mr. Debabrata Karan,
Mr. Debapriyo Karan,
Mr. Sankha Suvra Roy,
Mr. Avimannu Das.
...for the respondents.*

In Re: CAN 1 of 2025

This is an application for condonation of delay of 47 days' in filing the present appeal. Perused the application.

The delay has been satisfactorily explained, as such condoned.

CAN 1 of 2025 is thus disposed of without any order as to costs.

In Re: CAN 2 of 2025

The instant intra-Court appeal is directed against the judgment and order dated June 17, 2025 passed in WPA 24 of 2025. This is an application for stay.

All the relevant papers since are available with the application, the appeal is taken up for hearing instead of the application.

In Re: MAT 83 of 2025

The facts leading to file the connected writ petition is that the petitioner, in terms of the work order dated February 14, 2012, had executed the construction works

of Group 'D' quarter at Targhera Range under Gazoldoba Beat of Baikunthapur Division and had raised a bill of Rs.2,87,532/- , against the said bill, the State had issued a cheque no.073598 dated March 30, 2012.

The petitioner, due to his personal difficulties, could not encash the said cheque within time, as a result, the same got lapsed.

The petitioner thereafter had requested the authority to re-issue the said cheque, such request was forwarded by the Divisional Forest Officer to the higher authority but was ultimately not responded, persuasion continued till 2015.

The writ petitioner, thereafter, in the year 2025 has filed the connected writ petition for realization of the said amount along with interest.

The learned Single Judge has allowed the said prayer of the petitioner and has directed the State to pay the said amount with interest @6% per annum calculated from the date of original cheque drawn in favour of the petitioner i.e. March 30, 2012 until the date of actual payment, in default, the rate of interest were directed to be increased @12% per annum for the entire sum.

The State has paid the principal amount but has preferred the instant appeal challenging the part of the order directing payment of interest.

Mr. Bandyopadhyay, learned Senior Standing Counsel submits that the delay in payment of the billed

amount is in no way attributable to the State as such, the direction for payment of interest is not sustainable.

Mr. Karan, learned Advocate for the writ petitioner, the respondent herein, submits that the authorities were approached for re-issuance of the cheque in the year 2012 and were repeatedly requested to re-issue the same but of no result, therefore, the State cannot deny its contribution in the delay of payment of the admitted claim. Mr. Karan places reliance on the decisions of the Hon'ble Supreme Court in the case of ***Uttam Namdeo Mahale -Vs- Vithal Deo & Ors*** reported in **(1997) 6 Supreme Court Cases 73** and in the case of ***L.S. Synthetics Ltd. –Vs- Fairgrowth Financial Services Ltd. & Anr*** reported in **(2004) 11 Supreme Court Cases 456** to contend that the claim is not barred by limitation.

Having heard the learned Counsel for the parties and on perusal of the materials-on-record, it appears that the delay in payment is no way attributable to the State inasmuch as the cheque was issued against the bill within the time but the petitioner, for his personal difficulty, could not encash the same resulting lapse of the said cheque. The request to re-issue a cheque was pursued till 2015 and almost 10 years thereafter, the writ petition was filed to realize the said amount.

The State has paid the billed amount in terms of the direction of the learned Single Judge but the State cannot held to be responsible for the delay in the payment of the said amount. The decisions cited by Mr.

Karan are entirely misplaced in the facts and circumstances of the present case, therefore the direction for payment of interest is not sustainable and is accordingly set aside. The order impugned is modified to the said extent.

MAT 83 of 2025 along with the CAN 2 of 2025 is disposed of with the above terms. There shall be no order as to costs.

Parties to act on the server copy of this order duly downloaded from the official website of this Court.

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

(Ajay Kumar Gupta, J.)

(Biswajit Basu, J.)