

20.04.2026
Item No.7
Court No.12
(cp)

MAT 655 of 2026
with
CAN 1 of 2026
with
CAN 2 of 2026

Deep Niranjana Sinha & Anr.
Vs.
West Bengal Housing Board & Ors.

Mr. Shatadru Chakraborty
Mr. Ramendu Agarwal

.....for the appellants.

1. The affidavit of service is taken on record.
2. Despite service, none appears on behalf of the respondents.
3. Mr. Chakraborty, learned advocate for the appellants, submits that as the appellants are septuagenarians, they could not approach this court by filing the appeal within the stipulated time. On account of medical reasons they could not contact their learned advocates to take follow up steps in filing the appeal. The appellants being senior citizens could not travel frequently to the chambers of the learned advocate.
4. We have considered the explanations provided in paragraphs 3 to 8 of the application for condonation of

delay. We are satisfied that the delay has satisfactorily been explained. Accordingly, the delay is condoned. CAN 1 of 2026 is allowed.

5. The appeal is regularized.
6. The appeal arises out of an order dated November 13, 2025, passed by a learned Single Judge in WPA 30664 of 2024. By the order impugned, the learned court rejected the writ petition on the ground that during the pendency of the writ petition an order of cancellation of allotment of the garage had been passed and a fresh cause of action arose. Unless the order of cancellation was challenged, the writ court could not grant any remedy. The writ petition did not survive.
7. We are in disagreement with the above decision, to the extent that the cancellation is a natural consequence of non-compliance of the demand made by the respondent/housing board. The writ petition was filed challenging the demand on the ground of irregularity, illegality, arbitrariness and discrimination. The learned court should have allowed the appellants to challenge the cancellation order in the same writ petition, by amending the same. In any event, if the appellants could prove their case and were successful in the writ petition, the later steps taken by the respondent could automatically stand quashed. Moreover, the court could mould the relief.

8. Under such circumstances, the appeal is disposed of, upon setting aside the order of His Lordship and granting liberty to the appellants to amend the writ petition by incorporating averments and prayers in respect of the cancellation order. The writ petition shall be heard afresh on merits and a decision shall be taken by the appropriate court. The amendment to the writ petition will be carried out within three weeks from date.
9. Any step that is taken in the meantime by the housing board, shall abide by the final decision in the writ petition. The learned court is requested to hear out the matter at the earliest, upon the amendment being carried out. Amended copy of the writ petition will be served on the respondents.
10. Accordingly, the appeal and the connected application being CAN 2 of 2026, are disposed of.
11. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Shampa Sarkar, J.)

(Ajay Kumar Gupta, J.)