

D/L.1.
February 6, 2026.
MNS.

RVW No. 380 of 2025
+
CAN 1 of 2026
+
CAN 2 of 2026
in
MAT No. 622 of 2021

The Chairman/Executive Officer,
Haldia Municipality
Vs.
Sukdeb Bera and others

Mr. Debajyoti Basu, Sr. Adv.,
Mr. S. M. Hassan

... for the review applicant.

Mr. Partha Pratim Roy,
Mr. Salil Kumar Maiti,
Ms. Dolan Samanta

...for the private respondent.

Mr. Lalit Mohan Mahata, AGP.,
Mr. Prasanta Behari Mahata

...for the State.

Re : CAN 2 of 2026 (condonation)

1. The present review application has been preferred after a delay of about 1357 days beyond limitation.
2. The brief backdrop of the case is that a writ petition was initially preferred, with the allegation that the present review applicant had encroached upon PWD land.
3. The learned Single Judge taking it up was pleased to dispose of the same and had directed the appropriate authority to initiate a proceeding under Section 10 of the Highways Act, 1964, for removal of the illegal encroachment over the property-in-question.

4. Being thus aggrieved, the review applicant preferred MAT No. 622 of 2021, which was dismissed on contest by the concerned Division Bench.

5. While doing so, it was *inter alia* observed: “it is admitted that the Municipal authority had made construction over the land of the PWD without the permission of the PWD”.

6. Learned counsel for the review applicant alleges that the said recording was erroneous and seeks to take us to the merits of the review application.

7. However, the review applicant is barred at the threshold by the enormous delay of 1357 days in preferring the present review application, which is why we take up for disposal the condonation application first.

8. By way of explanation of the delay, a flimsy ground has been taken in paragraph 29, where it has been stated that after the order under review was passed, there were several round of litigations, in one of which it was discovered that if the observation of the Appellate Bench was permitted to remain on the records, it would operate against the review applicant.

9. From the condonation application itself, we find that pursuant to the order under review, the review applicant approached the appropriate authority. Thereafter, a writ petition was again taken out, upon which the matter went back to the authority, before which the review applicant participated. The authority having passed an order of

removal of the encroachment, a further writ petition was preferred.

10. According to the review applicant, during the course of final hearing of the last-mentioned writ petition, that is, WPA No. 20056 of 2022, upon exchange of affidavits, it was allegedly detected that the recording in the order under review, regarding it being admitted that the Haldia Municipality had made construction over the land of the PWD, would prejudice the review applicant. This apparently prompted the filing of the present review application.

11. Learned counsel for the review applicant submits that the valuable rights of the review applicant would be lost in the event such observation is permitted to remain on record.

12. However, despite a thorough perusal of the pleadings in the condonation application, we fail to understand as to what prevented the review applicant from preferring the review application within time, since, conspicuously, the order under review was passed in the presence of, and after hearing, the review applicant.

13. That apart, the conduct of the review applicant is palpably *mala fide* because the review applicant submitted to the order under review passed by the Division bench and appeared before the appropriate authority and took out two consecutive challenges on two occasions thereafter against the orders of the authority.

14. Only at the last limb of the litigation, after exploring all options and losing before all forums after several rounds of litigation, when the further options of the review applicant were severely restricted, the review applicant grew wiser and apparently understood the consequences of the concerned finding of the Division Bench.

15. Hence, not only has no plausible explanation for the inordinate delay been furnished in the condonation application, we find from the averments made in the condonation application itself that the conduct of the review applicant is palpably *mala fide* and as such, there is no scope of condonation of the delay.

16. Accordingly, CAN 2 of 2026 is dismissed on contest, with costs of Rs. 20,000/- to be paid by the appellant, that is, the Chairman / Executive Officer, Haldia Municipality, from his own pocket due to the harassment caused to the respondents. Such costs shall be paid to the respondents, through their learned Advocate-on-record in this Court, within a fortnight from date.

17. Consequentially, RVW No. 380 of 2025 is dismissed as time-barred.

18. Accordingly, CAN 1 of 2026 also stands disposed of.

19. Urgent certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Krishna Rao, J.)

(Sabyasachi Bhattacharyya, J.)