

17.03.2026
Item no13
Ct. no.14
ss

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**CAN 1 of 2025
With
CAN 2 of 2026
in
W.P.A. 29140 of 2023**

**Surja Sekhar Das
-Vs-
State of West Bengal & ors.**

Mr. Gautam Dey
Mr. Abhijit Mondal
Mr. Rohit Dey

... for the petitioner

Mr. Ratul Biswas
Mr. Kaushik Chowdhury
Ms. Soumoyadipa Kanu

... for the WBBPE

Re : **CAN 1 of 2025 with CAN 2 of 2026**

1. These applications are filed seeking for restoration of the writ petition upon condonation of delay.
2. The writ petition was dismissed for default on 13th January, 2025.
3. The application for restoration was filed on 20th November, 2025. The application for condonation of delay was filed on 2nd March, 2026.
4. As per contention of the application there is delay of 409 days in filing the application for restoration.
5. The petitioner contends that since at the material pint of time he was busy for a period of three months in providing academic instruction to primary and

high school students as a private tutor, in order to support himself financially, he was not aware of the proceeding. After the petitioner recovered from financial crisis, he enquired about the status of the proceeding and found that erstwhile learned advocate has not taken any steps for restoration of the writ petition. Thereafter the petitioner got engaged a new advocate to pursue the matter, which has resulted in delay in filing of the restoration application.

6. Mr. Gautam Dey, learned Advocate appearing on behalf of the petitioner-applicant submits that there is no intentional laches on the part of the petitioner-applicant. He seeks for restoration of the writ petition upon condonation of delay.
7. Ms. Soumoyadipa Kanu, learned Advocate appearing on behalf of the West Bengal Board of Primary Education leave the matter to the discretion of this Court.
8. The principle ground raised by the applicant in the application for condonation of delay is that due to financial stringency the petitioner could not pay attention to the legal proceeding and on recovering from such crisis after three months he found that the writ petition has been dismissed for default.
9. The phrase "*within such period*" in Section 5 of the Limitation Act includes both the original period of

limitation prescribed as well as period of delay leading upto actual date of filing of the appeal or application, as the case may be. As such, under Section 5 of the Limitation Act, for the purpose of seeking condonation of delay in filing appeal or application, as the case may be, beyond the stipulated period of limitation, the delay in filing has to be explained by demonstrating the existence of “*sufficient cause*” that resulted in such delay for both the prescribed period as well as the period after the expiry of limitation upto the actual date of filing the appeal or application, as the case may be. (***See Shivamma (Dead) by Lrs. versus Karnataka Housing Board & Ors.*** reported in **2025 SCC OnLine SC 1969**). To be precise, there is no such satisfactory explanation given in the application for such period to condone such delay of 409 days. It is pertinent to note that the application is also bereft of the exact date of knowledge as to when the petitioner had the information that the writ petition has been dismissed for default.

10. There can be cases where delay of shortest range may not be condoned whereas delay of long periods can be condoned if the explanation is satisfactory and acceptable. The petitioner has failed to demonstrate sufficient cause of not filing the application for restoration within the prescribed

period of limitation as well as the actual date of filing the application.

11. In view of the above, the application for condonation of delay being **CAN 2 of 2026** falls short of merit and accordingly, the same is dismissed.
12. Consequently, the application for restoration being **CAN 1 of 2025** also stands dismissed.
13. No order as to costs.

(**Bivas Pattanayak, J.**)