



2023:CHC-AS:39673

05.03.2026
Court No.25
D/L No.20
S. Gayen

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

WPA 732 of 2016
with
CAN 1 of 2025
CAN 2 of 2025

A.N.E. Industries Private Limited
Versus
The Eastern Coalfields Limited & Ors.

Mr. Kishore Dutta, Sr. Adv.
Mr. Avik Ghatak
Mr. Ratikanta Pal
Mr. Sourjya Roy

...for the Petitioner

Mr. Sarosij Dasgupta
Mr. Pradipta Basu
Ms. Subesha Banerjee
Ms. Madhumanti Chakraborty

...for the Respondents/ECL

1. Affidavit-in-opposition and affidavit-in-reply filed by the parties be kept with the record.
2. The petitioner has filed the present application praying for condoning the delay of 1136 days in filing for an application for recalling of the order dated 19th July, 2023 wherein, this Court has dismissed the writ application for default and for restoration of WPA 732 of 2016 in its original file.
3. Learned senior counsel appearing for the petitioner submits that when Mr. Moyukh Maitra, learned advocate has been instructed by the petitioner to appear before this Court and the petitioner was of the



view that the learned advocate-on-record could be functioning as advocate-on-record on behalf of the petitioner. Subsequently, the petitioner came to know that the writ petition has been dismissed for default by an order dated 19th July, 2023. The petitioner draws the attention of this Court to the publication wherein, it is found that the learned advocate, Mr. Moyukh Maitra has been booked for the offence and he was facing criminal charges. Under such, he could not appear before this Court. The petitioner has also relied upon the judgment passed by the Hon'ble Division Bench in **RVW 193 of 2022** in the case of **ANE Industries Pvt. Ltd. vs. M/s. Eastern Coalfields Ltd. & Ors.** dated 27th January, 2025 wherein, the Hon'ble Division Bench of this Court held that as follows:-

“11. However, the main allegation in the applications for condonation of delay is against Mr. Maitra, who conducted the case of the review applications. After going through the order under review, this Court finds that the applicants, at the relevant point of time, was represented by a learned Senior Counsel who was assisted by Mr. Maitra. In course of hearing, the learned Senior Advocate for the review applicants placed the publications made in several newspapers with regard to the notice under Order V Rule 20 of the Code of Civil Procedure in connection with the proceedings before the District Consumer Forum within the State of Punjab. It appears from the said public notice



under Order V Rule 20 of the Code of Civil Procedure that a proclamation under Order V Rule 20 was issued against Mr. Maitra directing him to personally appear on the date fixed in the said notice.

12.Attention of the Court was also drawn to an FIR which has been registered against Mr. Maitra in connection with the proceedings initiated before the Armed Forces Tribunal for and on behalf of the said complainants.

13.Taking note of the aforesaid facts it appears to this Court that Mr. Maitra is not traceable and attempts made to serve the applications upon him also proved futile. The allegations levelled against Mr. Maitra in the application for uncontroverted.

14.It is well settled that a litigant should not be made to suffer for the fault of the advocate.

15.Though the delay is inordinate, but the statements made in the applications for condonation of delay goes to show that the petitioners had reasons to rely upon the assurances given to them by Mr. Maitra, learned advocate, that he is taking steps for conducting their proceedings before the appropriate forum.”

11. In the present case, the facts of the application filed by the petitioner are similar to the order passed by the Hon’ble Division Bench in the above-referred matter.

12. Learned counsel for the respondents raised objection and submits that it is true that the learned advocate



who was contesting the case on behalf of the petitioner is involved in the criminal offences and is not traceable and not appearing before the Court but simultaneously it is duty of the petitioner to vigilant about the case, even after dismissal of the writ petition. The petitioner came after 1136 days for recalling of the order passed by this Court dated 19th July, 2023 and the petitioner has not shown any sufficient cause and prays for rejection of the application.

13. Heard the learned counsel for the respective parties and perused the materials on record. This Court finds that Mr. Moyukh Maitra who was conducted the case of the petitioner is facing criminal proceedings and he is not traceable. Under such, he could not appear before this Court and he has not informed to the petitioner with regard to the status of the case. When the petitioner came to know that the case filed by the petitioner is dismissed, the petitioner has filed the present applications. It is settled law that due to fault of the advocate appearing on behalf of the petitioner, the petitioner should not be suffered. In the present case also learned advocate has not appeared and has not informed to the petitioner that he is not appearing or advised to understand the law.

14. Considering the above, this Court finds that the petitioner has shown sufficient cause for non-



appearance of the learned counsel for the petitioner at the time of call.

15. Accordingly, the order dated 19th July, 2023 is recalled.

16. WPA 732 of 2016 is restored in its original file.

17. CAN 1 of 2025 and CAN 2 of 2025 are disposed of.

18. Let the writ application be listed on 2nd April, 2026 under the same heading.

19. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Krishna Rao, J.)