



01 24.10.2025
Sc Ct. no.2

In the matter of : Uttam Kumar Khan
 Applicant
 VS.
 The State of West Bengal & Ors.
 Respondents

For the State / Respondents:

For the Respondent No.2:

Re : I.A. No. CAN 2 OF 2025

Mr. K. J. Yusuf, learned Additional Government Pleader with Mr. Suman Dey, learned Advocate and Mr.



Khairul Alam, learned Advocate appears for the State respondents.

Mr. Kamalesh Bhattacharya, learned Senior Advocate with Mr. Aninda Bhattacharya, learned Advocate appears for the respondent no.2.

The writ petition was dismissed by an order dated **October 31, 2022** at **page 9** to the application. The application for condonation has been affirmed and filed in **August, 2025**, after three years almost the order for dismissal was passed.

Since the application for restoration was on the board with a delay of **11 days** and it is true that three years thereafter the instant application for condonation of delay has been filed, this Court is of the view that, for the procedural laches the substantive justice shall not suffer and the order for restoration of a proceeding in its original file or order allowing condonation of delay largely depends upon the discretion of the Court.

The law is well settled that, substantive justice shall not suffer for procedural irregularities. In the facts of the instant case it appears to this Court that, on the technical plea of filing of the condonation application after three years of filing of the restoration application, if is accepted, the writ petitioner will be non suited without having his grievance being redressed. The writ petitioner shall suffer irreparable hardship then, so he must get an opportunity to have his writ petition heard on merit.



In view of the above, the delay stands condoned subject to payment of cost of **Rs.2000/-** (Rupees two thousand only) to be paid by the petitioner in favour of the benevolent fund of Bar Association, High Court Calcutta within **seven days** from date.

Subject to payment of the aforesaid cost this application, **I.A. No. CAN 2 of 2025** stands **allowed**.

I.A. No. CAN 1 OF 2022

This is an application for restoration of the writ petition which was dismissed for default on **October 31, 2022** and the application was filed on or about **November 4, 2022**.

Sufficient cause being made out in this application and in view of the order already passed in **I.A. No. CAN 2 of 2025**, subject to payment of cost as directed therein, the order of dismissal of the writ petition dated **October 31, 2022**, stands **recalled**.

This writ petition stands **restored** to its original file with number.

When the writ petition shall be taken up for consideration, the petitioner, as a condition precedent, shall produce the money receipt evidencing the payment of cost before the Court.

On the above terms, **I.A. No. CAN 1 of 2022** stands **allowed**.

(Aniruddha Roy, J.)