



Ct.No.19 D/L 22.07.2026
136

Saikat
Mukherjee

WPA/36083/2013

with

CAN/1/2025

with

CAN/2/2025

with

CAN/3/2026

ASHUTOSH BISWAS & ANR.

VS.

UNION OF INDIA AND ORS.

Mr. Amalnath Sen, Adv.
Mr. Shouvik Naskar, Adv.
Ms. Subhangi Panigrahi, Adv.
Ms. Priyabnata Saha, Adv.

...For the Writ Petitioners/
Applicants

Ms. Anindita Maity, Adv.
Mr. Debashish Basak, Adv.

...For the Respondent/
Union of India

In Re:- CAN 3 of 2026

- 1.** The contending parties are represented by their respective learned counsel.
- 2.** Affidavit-of-service as filed by the applicants is taken on record.
- 3.** Since original of CAN 3 of 2026, which is an application for substitution, is not traceable, learned advocate appearing on behalf of the writ petitioners has provided an authenticated copy of CAN 3 of 2026, which is taken on record.
- 4.** By filing CAN 3 of 2026 the writ petitioners have prayed for substitution of the legal heirs of deceased



Writ Petitioner No.1 who died on 25.05.2026, particulars of whom have been mentioned in Page No.7 of the instant petition, apart from his wife since her name has already been recorded as Writ Petitioner No.2.

5. On careful perusal of the petition for consideration and after hearing the learned advocates for the contending parties this Court finds no predicament in allowing the instant petition.
6. Consequently, the prayer is allowed.
7. Consequently, the name of the deceased Writ Petitioner No.1 be deleted from cause-title of the instant writ petition and in its place the names of legal heirs of the deceased Writ Petitioner No.1, particulars of whom have been mentioned in Page No.7 of the instant petition, be inserted as Writ Petitioner No.1A to 1E.
8. Necessary correction in this regard is to be carried out by the department in the cause-title of the instant writ petition by virtue of this order.
9. With the aforementioned observation, **CAN 3 of 2026 is disposed of.**

In Re:- CAN 2 of 2025 & CAN 1 of 2025

10. CAN 2 of 2025 is an application for condonation of delay of 681 days in filing CAN 1 of 2025, which is an application for recalling the order dated 09.06.2023 on which day the instant writ petition



was dismissed for default on account of non-appearance of writ petitioners.

- 11.** At the time of hearing learned advocate appearing for writ petitioners submits before this Court that from the pleadings of the instant two interlocutory applications it would reveal that both the writ Petitioner No.1, since deceased and the Writ Petitioner No.2, are elderly persons and on account of their extreme old age they could not establish contact with their erstwhile learned advocate. It is further submitted that unfortunately their erstwhile learned advocate is no more in the earth and such factum was also not known to the present writ petitioners and the present writ petitioners came to learn for the first time about the death of their learned advocate on 25.04.2025 and subsequently on 30.04.2025 they came to learn that the writ petition was dismissed for default on 09.06.2025.
- 12.** It is, thus, submitted on behalf of the writ petitioners that on account of aforementioned unfortunate incident the writ petitioners could not approach this Court by filing appropriate application for restoration within the time and hence, the delay, which may be condoned.
- 13.** It is further submitted that for the selfsame reason also the application for restoration of the instant writ petition may be considered favourably.



14. Such prayers are vehemently opposed on behalf of the Respondent-Union of India. It is submitted that no cogent explanation has been furnished for delayed filing of the restoration application and for that the delay has not been properly explained.
15. On careful perusal of the petition for consideration and after hearing the learned advocates for the contending parties this Court inclines to take a lenient approach keeping in mind the extreme old age of the writ petitioners and untimely death of their erstwhile learned advocate.
16. Accordingly, the prayers are allowed. Delay in filing CAN 1 of 2025 is condoned.
17. Consequently, **CAN 2 of 2025 is disposed of.**
18. In view of facts and circumstances as discussed hereinabove, this Court is also inclined to allow the prayer of CAN 1 of 2025 and the same is, thus, allowed.
19. Consequently, the order of dismissal dated 09.06.2023 as passed in WPA 36083 of 2013 is hereby recalled, subject to payment of cost of Rs.5000/- which shall have to be deposited by the writ petitioners with the Law Clerks' Welfare Trust Board positively within 15 working days from today.
20. In the event, such cost is deposited, this Court shall formally record the restoration of the aforementioned writ petition to its original file and number.



21. CAN 1 of 2025 is, thus, **disposed of** accordingly.

22. Let this matter be listed on **14th August, 2026**,
under the heading '**For Orders**'.

(PARTHA SARATHI SEN, J.)