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Item No.5
12.11.2026
Court. No. 12
GB

MAT 2297 of 2025
With
CAN 1 of 2026
With
CAN 2 of 2026

Aloke Kuma Dey
Vs.
The State of West Bengal & Ors.

Mr. Tapash Kumar Bhattacharya,
Mr. Sandip Ghosh,
Mr. Partha Sarkar
... for the Applicant/Appellant.
Ms. Susmita Saha Dutta, Ld. AGP.,
Ms. Madhurima Saha
... for the State.

In Re: CAN 1 of 2026

1. Since the present intra court appeal was belatedly presented, an application being CAN 1 of 2026 has been filed under Section 5 of the Limitation Act for condonation of delay.

2. Mr. Bhattacharya, learned advocate appearing for the appellant submits that the delay occurred due to reasons beyond the control of the appellant and there was no intentional laches or negligence on the part of the appellant. He submits that since the family members of the appellant (wife, son and mother) fell seriously ill and were also hospitalized, the appellant could not take steps at the appropriate stage. The appellant averred that he was mentally stressed and disturbed due to the recurring health issues faced by the family members and he was not in a position to follow up with the learned Advocate about the fate of the writ petition. Thus, the appeal could not be

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preferred within the period of limitation. The appellant prays for condonation of delay.

3. Ms. Saha Dutta, learned Additional Government Pleader opposes the prayer.

4. Heard the learned advocates for the respective parties. Perused the averments made in the application and the explanation for the delay. We are satisfied that there were sufficient causes which prevented the appellant from preferring the appeal within the prescribed period of limitation.

5. In view thereof, we are inclined to allow the application for condonation of delay, subject to payment of cost of Rs.5,000/- to be paid to the State Legal Services Authority, West Bengal for transmission to the funds of the Juvenile Justice Committee, High Court, within three weeks from date.

In Re: MAT 2297 of 2025

1. By preferring the present intra court appeal, the writ petitioner/appellant (hereinafter referred to as the 'appellant') has called in question the justiciability of the order dated 5th October, 2023 passed in WPA 22977 of 2022. By the impugned order, the writ petition was dismissed.

2. The facts leading to presentation of the appeal was that, the appellant had been operating one foreign liquor shop in the name and style of 'Tinar More CS Shop' standing on a plot bearing no.11953/28801 at Mouza – Tinar under Sarai Tinar Gram Panchayat, District – Hooghly, from a rented premises.

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3. Subsequently, with the intention to run the shop from his own land, the appellant approached the competent authority seeking permission for shifting of his liquor shop. Such prayer was not accepted by the authority on the ground that the appellant's proposed shop fell within the vicinity of 1000 ft. from one Anganwadi centre. The appellant questioned the said decision of the respondent by preferring the writ petition, contending that the Anganwadi centre could not be considered to be a recognized educational institution as referred to in Sub-Rule 1 of Rule 8 of the West Bengal Excise (New Sites and Grant of Licence) Rules, 2003. The learned Single Judge rejected such contention of the appellant and the writ petition was dismissed. Aggrieved, the appellant has preferred the present appeal.

4. Mr. Bhattacharya, learned advocate appearing for the appellant submits that an Anganwadi centre cannot be treated to be at par with an educational institution recognized either by the State Government or the Central Government. He submits that such centre is not governed by any statutory framework of the school education department. He further submits that his proposed shop is situated at a distance of more than 1000 ft. but, such fact had been glossed over by the learned Single Judge and the learned Single Judge arrived at an erroneous finding.

5. Ms. Saha Dutta, learned Additional Government Pleader opposes such contentions advanced on behalf of the appellant and she asserts that an Anganwadi

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centre should be considered to be a recognized educational institution within the meaning of Sub-Rule 1 of Rule 8 of the 2003 Rules. She referred to a notification issued by the Deputy Secretary to the Government of West Bengal, Department of Excise West Bengal dated 20th January, 2012 and contends that by this notification the concerned department has clarified that the Anganwadi centres may not be excluded from the meaning of educational institution under Rule 8 of the 2003 Rules.

6. The order impugned in the appeal indicates that the learned trial Judge, by referring to Rule 8 of 2003 Rules and Rules 5(4) and 5(5)(iv) of the Right of Children to Free and Compulsory Education Rules, 2012 arrived at conclusion that the Anganwadi centre was also an educational institution recognized by the State Government. His Lordship held as follows :-

> "10. Learned counsel for the respondent-authorities has rightly pointed out that Rule 5(4)(iv) of the 2012 Rules clearly stipulates that the State Government, through appropriate local authorities, shall maintain at the level of the Circle Level Resource Centre, a register of all children under their respective jurisdictions from their birth till they attain the age of 14 years. The resister shall, in respect of every child including an infant after birth, include the name of school or pre-school or "Anganwadi Centre", etc.
>
> 11. Thus, it is evident that recognition has been given to Anganwadi Centres on equal footing as schools and pre-schools under the Right of Children to Free and Compulsory Education Act, 2009. Since the said Act governs the imparting of education within the State and operates in the specific field of education, the mention of Anganwadi Centre as a school or a pre-school definitely has to be construed as a recognition of Anganwadi Centres as educational institutions within the contemplation of Rule 8 of the 2003 Rules.
>
> 12. That apart, Section 9 of the Right of Children to Free and Compulsory Education Act, 2009 also mentions that every local authority shall ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction. Read in conjunction, it cannot be gainsaid

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> that Anganwadi Centres, within the contemplation of the Scheme under which those have been formulated, also have activities of imparting education to children in the age group of three to six years.
>
> 13. Hence, the said Centres fall within the specific ambit of Rule 8 of the 2003 Rules."

7. We do not find either any infirmity or any perversity in such finding.

8. The Anganwadi Centre imparts elementary education and is established under the integrated child development scheme (ICDS) under the Ministry of Women and Child Development and Social Welfare. Section 2(1) of the National Food Security Act, 2013 defines an Anganwadi Centre to mean a child care and development centre set up under the ICDS Scheme of the Central Government to render services under the said Act. Under the said provision, states have also set up Anganwadi Centres which provide care and elementary education for children between the ages of 3 to 6 years.

9. Section 11 of the Right of Children to Free and Compulsory Education Act, 2009 provides that the appropriate Government must ensure pre-school education. The said Section is quoted below :-

> "**11. Appropriate Government to provide for pre-school education.-**
>
> With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children."

10. Accordingly, the State of West Bengal's School Education Department framed the West Bengal Right

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of Children to Free and Compulsory Education Rules, 2012, and recognized pre-school/elementary education through Anganwadi Centres.

11. Under Rule 5(1), the State through the appropriate local authorities were required to maintain at the level of the Circle Level Resources Centre, a register of children under the respective jurisdiction from their birth till they attained the age of 14 years. Under Rule 5(4), the said register was to be maintained transparently and be made available in public domain. The same was to be used to maintain admission, attendance and completion of elementary education of every child residing in the jurisdiction. The register under Rule 5(5) was to provide various information. The is quoted below:-

> "**5.Maintenance of records of children by local authority for purpose of clause (d) of section 9.-**
>
> (5) The register referred to in sub-rule(1) shall, in respect of every child including an infant after birth, include –
>
> (i) name, sex, date of birth (Birth Certificate Number wherever available), place of birth;
>
> (ii) name, address, occupation of the parents or guardians;
>
> (iii) present address of the child;
>
> (iv) name of school or pre-school or Anganwadi Centre or Alternative Innovative Education Centre where the child avails elementary education up to the age of 6 years, wherever available;
>
> (v) elementary school where the child is admitted, if applicable;
>
> (vi) class in which the child is studying (for children between age 6 to 14 years), and if education is discontinued in the territorial jurisdiction of the said local authority, the cause of such discontinuance;
>
> (viii) information regarding whether the child belongs to the weaker section within the meaning of clause (e) of section 2;

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> (ix) information regarding whether the child belongs to a disadvantaged group within the meaning of clause (d) of section 2;
>
> (x) information regarding whether the child requires special facilities or residential facilities on account of migration and sparse population, age appropriate admission, disability of any other reason to be specified."

12. Under Rule 5(5)(iv), the name of the pre-school or the Anganwadi Centre or the Alternative Innovative Education Centre which the child availed of for elementary education up to the age of 6 years was also an important information. Pre-school education / elementary education are being imparted to children between the age of 34 to 6 years at Anganwadi Centres and such centres are recognised under the Right of Children to Free and Compulsory Education Act, 2009 and Rules framed thereunder. They function under the Department of Women and Child and Social Welfare. The fact that they are educational institutions, recognized by law is not in doubt. Under such circumstances they also fall under the category of a school for the purpose of implementation of Rule 8 of the 2003 Rules of 2003.

13. Thus, the order impugned is upheld.

14. Accordingly, the appeal being devoid of merit stands dismissed.

15. However, there shall be no order as to costs.

16. However, this order shall not preclude the appellant from approaching the auithority in the event he is of the opinion that the proposed site for the shop was situated beyond 1000 ft. from the Anganwadi Centre. The authority shall take appropriate steps in

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accordance with law after due notice to the appellant, in the event the appellant approaches the authority.

(Shampa Sarkar, J.)

(Partha Sarathi Chatterjee, J.)