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WA-2566-2025

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&

HON'BLE SHRI JUSTICE PUSHPENDRA YADAV

ON THE 19th OF SEPTEMBER, 2025

WRIT APPEAL No. 2566 of 2025

SUSHIL VERMA

Versus

***MADHYA PRADESH INDUSTRIAL INFRASTRUCTURE
DEVELOPMENT CORPORATION GWALIOR AND OTHERS***

.....
Appearance:

Shri Prashant Singh Kaurav-Advocate for appellant.

Shri Anil Sharma-Advocate for respondents.
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ORDER

Per. Justice Anand Pathak

1. The instant appeal under Section 2(1) of Madhya Pradesh Uchcha Nyayalaya (Khand Nyaypeeth Ko Appeal) Adhiniyam, 2005 has been preferred by appellant being aggrieved by the order dated 21.07.2025; whereby, Writ Petition No. 6797/2011 filed by petitioner/appellant was dismissed by learned Writ Court for want of prosecution and also against the subsequent order dated 13.08.2025; whereby, MCC No. 2800/2025, seeking restoration of the said writ petition, was dismissed.

2. Upon perusal of record, it appears that the learned Writ Court dismissed the Writ Petition preferred by petitioner/appellant *vide* order dated 21.07.2025 with following observations:-

“On 27.6.2025, no-one appeared for the petitioner,



therefore, in the interest of justice, SPC was directed to be issued to the petitioner on a date to be fixed by the office. Today also, no-one appeared on behalf of the petitioner even after issuance of SPC. It appears that the petitioner has lost interest in prosecuting the present petition.

Accordingly, this petition is dismissed for want of prosecution.”

3 . Subsequently, the MCC preferred by petitioner/appellant for restoration of the writ petition was dismissed *vide* order dated 13.08.2025 with following observations:

“7. Since sufficient cause has not been shown by applicant, therefore, no case is made out for restoration of W.P. No.6797/2011 which was pending for the last 14 years and still counsel for applicant was not ready to argue the matter.

8. Accordingly, this MCC fails and is hereby dismissed.”

4. It is the submission of counsel for appellant that the dismissal of the writ petition on 21.07.2025 was caused solely due to unavoidable circumstances, and not on account of any willful default or lack of interest on the part of appellant/petitioner. It is contended that on 27.06.2025, the matter was adjourned due to non-appearance of the petitioner’s previous counsel, whereupon SPC was issued by learned Writ Court. Thereafter, the appellant/petitioner engaged Shri Prashant Sharma, Advocate, along with his associates, who filed vakalatnama on 18.07.2025. However, on the next date



of hearing, i.e., 21.07.2025, the newly engaged counsel was engaged in another Court and was unable to appear before the Writ Court, which resulted in the dismissal of the writ petition for want of prosecution. It is further submitted that the dismissal of the writ petition, which had remained pending for over a decade and involved the appellant's claim for promotion, on a technical ground of non-appearance, without adjudication on merits, is *ex facie* arbitrary and contrary to the settled principles of law. It is further contended that the petitioner immediately filed a restoration application *vide* MCC No.2800/2025, which too was rejected on technical grounds, without appreciating the substantial nature of the relief sought, namely long-pending promotion rights and without examining the merits of the writ petition. Under such circumstances, it is prayed that the impugned orders be set aside in the interest of justice and the Writ Petition may be restored to its original number.

5. Learned counsel for respondents opposed the prayer and prayed for dismissal of appeal.

6. Heard the counsel for parties and perused the record.

7. Considering the submissions advanced by counsel for the parties as well as *bona fide* mistake and in view of the settled law that for the fault of the counsel, the litigant should not be made to suffer (See: AIR 2001 SC 2497, M.K. Prasad Vs. P. Arumugam, 2007 (5) MPHT 470, Dindayal Bansal Vs. Gwalior Nagar Tatha Gram Vikas Pradhikaran, AIR 1981 SC 1400, Rafiq and Another Vs. Munshilal and Another), the Writ Appeal deserves to be allowed.



8. A suggestion has been given to counsel for appellant to invest one hour of community service while visiting **Madhav Andha Ashram, Gwalior** with some food items/snacks of **Rs.10,000/- (Rupees Ten Thousands Only)** and spend one hour with the children/ inmates/ families, who are of humble background and are being taken care of by the NGO/Society sponsored by State Government. This community service of one hour would not only be satisfying to the soul but would also give a message to the differently abled children that society and its members care for them and that they are not considered as the children of the Lesser God.

9. The said suggestion is not punitive in nature and compliance of it is at the discretion of counsel for appellant.

10. Graceful enough in their disposition, suggestion is readily accepted by counsel for appellant and he undertakes that he not only would visit the mercy home but also would carry some food items of Rs.10,000/- with him and spend one hour time with them to understand them and to satisfy themselves while doing such a pious work.

11. Appreciating the gesture shown by counsel for appellant with the earnest hope and belief that the counsel would visit the aforesaid place within 15 days from today and spend one hour time with the children/ inmates/ families of the mercy home and bring smile on their face satisfy their soul. It is expected that any Government Advocate or other advocate may also accompany the counsel for this purpose.

12. This is a test case to give concept of '**Social Audit**' a chance to gain grounds. Responsible and Resourceful persons of the Society who are



occupying important positions in the Department of Administration/Education/Health/Legal and other related fields including Professionals like Chartered Accountants/Doctors/Lawyers etc., to take some responsibility to visit the places (like orphanage/old age home/mercy home/one stop center etc.) where persons with disability/ orphans/ old age people/ victims of the crime and other destitute are institutionalized so that they can come to know about the plight of these inmates and would be able to contribute while raising their standards of living and to create sense of well-being amongst them. Inmates who are living in such institutions would also feel that they are not left out by the society and the society is still eager to take them into its fold. This way, they would come in the main stream also.

13. Another important effect of the Social Audit is that Management of those Institutions sometime misbehave or cause mischief to the inmates especially children and females living there and this way, they would always be cautious that the society is keeping eyes over their working. Therefore, evolution of concept of Social Audit and its effective implementation is the need of hour. Policymakers, especially Department of Women and Child Welfare Development (DWCD), Deptt. of Social Justice and Police Department must come out with some tangible solution in this regard.

14. Therefore, keeping the said spirit, counsel for appellant is directed to submit a report regarding his visit to Madhav Andha Ashram, Gwalior within fifteen days elaborating their experience and status of mercy home with suggestions, if any, in the litigation (W.P. No. 6797/2011), which is



going to be restored by this order.

15. On submission of the report and affidavit as accepted by counsel for appellant, W.P. No. 6797/2011 shall be restored to its original number.

16. Accordingly, the instant writ appeal is **allowed** subject to compliance of the directions as referred above within one month. The order dated 21.07.2025 passed in W.P. No. 6797/2011 and order dated 13.08.2025 passed in MCC No. 2800/2025 are hereby set aside and W.P. No. 6797/2011 is restored to its original number.

17. Copy of this order be kept in the file of W.P. No. 6797/2011 for record/compliance purpose.

18. Copy of this order be also sent to the Chief Secretary/ Principal Secretary, Women and Child Development Department, Department of Social Justice and Secretary Juvenile Justice Committee M.P. High Court for information and contemplation.

19. With the aforesaid, the Writ Appeal stands **disposed of**.

(ANAND PATHAK)
JUDGE

(PUSHPENDRA YADAV)
JUDGE

(Dubey)