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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO. 15645 OF 2015
IN WP/7655/2012**

**THE STATE OF MAH AND OTHERS
VERSUS
SUKSHAM ANNARAO BIRAJDAR AND OTHERS**

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AGP for Applicants : Shri P.G.Borade.

Advocate for Respondent No.1 : Shri M.V.Ghatge.

Advocate for Respondent Nos.2 and 3 : Shri G.G.Suryawanshi.

Advocate for the Zilla Parishad : Shri S.S.Manale.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 18th December, 2015

Per Court:

1 After hearing the learned AGP on 04.12.2015 I had passed the following order:-

- “1. *The learned AGP submits on behalf of the applicants that 3 months time by way of an extension be granted for complying with the direction of this Court dated 21/11/2014 in WP No.7655/2012.*
2. *This Court had issued the following directions in paragraph No.7 and 8 of the order dated 21/11/2014 in WP No.7655/2012 which read as under :-*
 - “7. Writ petition is partly allowed. Appeal No.1/2011 is therefore relegated to the Office of the Regional Deputy Commissioner of Social Welfare

Department, Latur for rehearing. Both the litigating parties shall appear before the said authority on 24/12/2014 and as such, separate notice of hearing need not be issued by the Appellate Authority.

8. Needless to state that the appellate authority shall hear all the litigating parties before proceeding to decide Appeal No.1/2011 and shall decide it as expeditiously as possible and preferably within a period of six months from the date of appearance.”

3. *Despite more than 12 months have passed by and the direction was to decide Appeal No.1/2011 within a period of 6 months from the date of appearance 24/12/2014, the said appeal has not been decided. Reason assigned is that the Commissioner of Handicapped Disability, Pune is in possession of the original file of appeal and despite communication dated 21/27-02-2013, 06/06/2013 and 02/09/2015 by the concerned Authority, the file has not been handed over to the said authority / applicant No.1 in this application.*
4. *I find that applicant No.1 / Authority is resorting to a lame excuse. After this Court passed an order on 21/11/2014, he has issued a letter for the first time on 02/09/2015, when in fact the appeal should have been decided on or before 24/06/2015. This is clearly an act amounting to disobedience of the orders of this Court.*
5. *Before issuing notice to the respondents, I am directing the Regional Deputy Commissioner of the Social Welfare Department to show cause why action under the Contempt of Courts Act should not be initiated against him for having flouted the order of this Court dated 21/11/2014.*
6. *Applicant No.1 shall file his reply on or before 11/12/2015.*
7. *This application be listed for hearing on 15/12/2015 in the supplementary board.”*

Waghmare, who is the Regional Deputy Commissioner, Social Welfare Department, Latur, is personally present in the Court. An affidavit has been filed by him on 10.12.2015 which is before the Court. He has tendered an unconditional apology in paragraph 2 of the said affidavit.

3 The learned AGP has placed on record a copy of the order dated 05.08.2015 by which the earlier Regional Deputy Commissioner, Social Welfare Department, Shri Madhav Vaidya had been trapped by the Anti Corruption Bureau and was arrested on 22.07.2015. He was released on bail on 24.07.2015. Consequentially, the Government of Maharashtra, by invoking it's powers under Rule 4(2)(a) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979, has placed Shri Madhav Vaidya under suspension. A copy of the order of suspension dated 05.08.2015 is taken on record and marked as Exhibit X for identification.

4 The learned AGP, therefore, submits that the officer who was to implement the directions of this Court dated 21.11.2014 in Writ Petition No.7655/2012, had failed to comply with the said directions on or before 24.06.2015.

5 He further submits that the concerned files pertaining to Appeal No.1/2011 have been received by the Affiant Officer and he would

decide the said appeal expeditiously and as may be directed by this Court.

6 Shri Ghatge, learned Advocate appearing on behalf of Respondent No.1/ original Petitioner, Shri Manale, learned Advocate appearing on behalf of the Zilla Parishad and Shri Suryawanshi, learned Advocate appearing on behalf of the Management, submit that they would extend their cooperation to the concerned Officer in deciding the said appeal.

7 In the light of the above, I do not find that any fault or delay can be attributed to Shri Laxman Waghmare. He has joined only on 04.07.2015 after the period of implementation of the order of this Court was over on 24.06.2015. Therefore, it is observed that Shri Laxman Waghmare is not required to tender an apology since he is not at fault.

8 In the light of the above, this Civil Application is disposed of by granting time to decide Appeal No.1/2011 filed by the original Petitioner on or before 31.03.2016.

9 The litigating sides shall appear before the Regional Deputy Commissioner, Social Welfare Department, Latur at his office on 04.01.2016 at 03:00 pm. Separate notices need not be issued by the said

Authority. The litigating sides shall extend their cooperation to the said Authority and shall participate in the hearing on such dates as the learned Authority would post the matter.

(RAVINDRA V. GHUGE, J.)