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

**909 CIVIL APPLICATION NO. 2382 OF 2024
IN CAPL(ST)/1732/2024**

VEERBHADRA SIDRAMAPPPA BIRAJDAR AND ORS

VERSUS

**THE STATE OF MAHARASHTRA THR SECRETARY, LAW AND
JUDICIARY DEPT. MANTRALAYA MUMBAI (DELETED) AND
ORS**

....

Mr S. B. Gastgar, Advocate for applicants
Mr R. S. Wani, A.G.P. for respondents/State

**CORAM : MANGESH S. PATIL
AND
PRAFULLA S. KHUBALKAR, JJ.**

DATE : 13th December, 2024

PER COURT:

1. By way of this civil application, the applicants are seeking condonation of delay in preferring a contempt appeal against the order of the learned Single Judge.
2. We have heard the learned advocate not only in respect of aspect of the delay but even on the merits of the appeal.
3. The applicant preferred contempt petition in the first appeal. In the contempt petition, a notice was issued to the learned

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officer, who filed an affidavit inter alia, accepting the error committed by him, which has been accepted by the learned Single Judge for the reasons recorded in paragraph No.14 of the order dated 25/10/2023, which reads as under :-

“14] Heard the learned counsel for the parties. The Tribunal although held that the petitioners did not have locus standi to maintain the application, has nevertheless proceeded to consider the evidence of the contempt petitioners and has dealt with the case of the complainant and has decided the case on its own merit. The correctness of the order dated 3rd November, 2021 is now challenged before this Court in First Appeal. On issuance of the notice in the Contempt Petition by this Court, the Judicial Officer has tendered his unconditional apology and has submitted that the order is inadvertent and regretted. Considering the apology tendered by the respondent no.4 and the also the fact that evidence tendered by the petitioners is taken into consideration while deciding the companion application for the same cause, it cannot be said that the act of the learned Joint Charity Commissioner is deliberate. The learned Joint Charity Commissioner has not non-suited the petitioners on locus but has adjudicated the connected application for the same cause on merits taking into consideration the evidence adduced in both the applications. As such, no case for contempt is made out. I accept the statement of the Joint Charity Commissioner that the error is inadvertent and it is regretted. Contempt Petition is accordingly disposed of.”

4. On hearing the learned advocate for the applicants, it transpires that the applicants are aggrieved and are apprehending about

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the observations in the aforementioned paragraph to the effect that the order under challenge in the first appeal was an adjudication on merits taking into consideration the evidence adduced in both the applications.

5. Apart from this, the learned advocate for the applicants could not point out any apparent illegality in the order which the applicants seek to challenge, whereby the learned Single Judge has accepted the unconditional apology tendered by the learned Joint Charity Commissioner and has purged the guilt.

6. The application together with the contempt appeal are disposed of with a clarification that observations in the order under challenge dated 25/10/2023, passed by the learned Single Judge in Contempt Petition No.213/2022 shall be confined to the decision of the contempt petition and the first appeal shall be heard on its own merits, independently.

(PRAFULLA S. KHUBALKAR, J.) (MANGESH S. PATIL, J.)

sjk