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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.885 OF 2024

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Laxmi Mahadev Ghanekar
Through Her C.A. & Daughter
Suvarna Suresh Ambekar

... Petitioner

V/s.

Grievance Redressal Committee,
Mumbai Suburban & Ors

... Respondents

Mr. Nitesh Acharya a/w Ms. Supriya Ghadge, for
Petitioner.

Mr. Sanjay D. Rayrikar, AGP for State/Respondent
Nos.2, 6 and 10.

Mr. Abhijit Patil i/by Mr. Vijay Patil a/w Mr. Yogesh
Patil, for Respondent Nos.3 to 5 (SRA).

Mr. Vishal Kanade a/w Mr. Arjun Savant i/by Mr. Sagar
Batavia, for Respondent Nos.8 & 9.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 23, 2024

P.C.:

- 1. Rule.**
- 2. Rule is made returnable forthwith.**
- 3. The limited question which arises for consideration in this writ petition, is whether the Appellate Authority without condoning delay could have been entertained the appeal filed by**

the respondents. By the order dated 17 April 2018, the Competent Authority declared husband of petitioner as 'eligible' in Supplementary Annexure – II. The respondent No.8 filed Appeal No.123 of 2021 before respondent No.2 for declaring himself as 'eligible'. On 29 November 2021, the Appellate Authority allowed the appeal.

4. The petitioner challenged the order of Appellate Authority before the second Appellate Authority. By the impugned order dated 11 December 2023, the Second Appeal No.59 of 2022 has been dismissed. Hence, present writ petition.

5. It appears that there was delay in filing Appeal No.123 of 2021. According to respondent No.8, he filed an application for condonation of delay. However, on perusal of the order dated 29 November 2021, it appears that the order has been passed without condoning the delay. Hence, the order is required to be set aside. The Appellate Authority, therefore, erred in confirming such order. Hence, following order:

i) The order dated 29 November 2021 passed by the Additional Collector (E/R) and Appellate Authority (Eastern Suburbs) Mumbai/respondent No.2 and the order dated 11 December 2023 passed by the Grievance Redressal Committee, Mumbai in Second Appeal No.59 of 2022 are quashed and set aside.

ii) The proceedings are remitted back to respondent No.2 for deciding Appeal No.123 of 2021 afresh. The respondent No.2 shall decide the application for condonation of delay and, if respondent No.2 decides the application for condonation, he shall decide the

appeal on merits after giving opportunity to hear the petitioner.

iii) Considering the facts, the Appellate Authority shall decide the appeal within three months from today.

iv) Parties shall appear before the respondent No.2 on **31 January 2024 at 11:00 a.m.**

6. Rule is made absolute in above terms.

7. The writ petition stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)