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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
BEFORE**

HON'BLE SHRI JUSTICE GURPAL SINGH AHLUWALIA

ON THE 5th OF JANUARY, 2023

FIRST APPEAL No. 174 of 1998

BETWEEN:-

**1 NARBADA EDUCATION SOCIETY HOSHANGABAD
THROUGH BHAWANI SHANKER SHARMA, AGED 29
YEARS, S/O SETH GHASIRAM, R/O HOSHANGABAD,
TEHSIL AND DISTRICT HOSHANGABAD (MADHYA
PRADESH)**

**2 .NARBADA EDUCATION SOCIETY HOSHANGABAD
THROUGH BHUPENDRA KUMAR VERMA, AGED 45
YEARS, S/O BABU GOURI SHANKAR VERMA,
ADVOCATE, R/O HOSHANGABAD, TEHSIL AND
DISTRICT HOSHANGABAD (MADHYA PRADESH)**

**3. NARBADA EDUCATION SOCIETY HOSHANGABAD
THROUGH MADAN GOPAL AWASTHY, AGED 43 YEARS,
S/O YADUNANDAN AWASTHY, R/O HOSHANGABAD,
TEHSIL AND DISTRICT HOSHANGABAD (MADHYA
PRADESH)**

.....APPELLANT

(BY SHRI B.M. PRASAD- ADVOCATE)

AND

**1. STATE OF MADHYA PRADESH, THROUGH THE
COLLECTOR, HOSHANGABAD (MADHYA PRADESH)**

**2. THE COLLECTOR, HOSHANGABAD (MADHYA
PRADESH)**

**3. DIVISIONAL SUPERINTENDENT OF EDUCATION
NARBADA DIVISION, HOSHANGABAD (MADHYA
PRADESH)**

**4. GOURISHANKAR SHARMA, AGED 40 YRS, S/O
PANNALAL, TEACHER POSTED AT BETUL, TEHSIL &
DISTRICT HOSHANGABAD (MADHYA PRADESH)**

.....RESPONDENTS

This appeal coming on for direction this day, the court passed the following:

ORDER

As per the service report, the respondent No. 4 has expired.

Accordingly, by order dated 30.01.2019, an opportunity was given to move appropriate application on account of death of respondent No. 4. Thereafter, on 21.11.2022, last opportunity was granted to file appropriate application.

It is submitted by counsel for the appellants that he has recently been engaged in the month of December, 2022, but could not file an application for substitution of L.Rs of respondent No. 4.

Abatement is by force of law and only a formal order is required to be passed.

Thus, the appeal has already abated and in spite of opportunities, no application has been filed. Further by order dated 21.11.2022, it was specifically mentioned that the last opportunity is being given. However, the said opportunity has also not been availed.

Accordingly, the appeal is **dismissed as abated**.

However, the appellants shall have a liberty to move an application for setting aside abatement along with an application for condonation of delay.

(G.S. AHLUWALIA)
JUDGE

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