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MCC-2404-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&amp;

HON'BLE SHRI JUSTICE B. P. SHARMA

ON THE 15<sup>th</sup> OF SEPTEMBER, 2026MISC. CIVIL CASE No. 2404 of 2026*GOPAL KRISHNA VIJAYVARGIYA AND OTHERS**Versus**THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Ajay Kumar Shukla - Advocate for the applicants.

Shri Rajesh Tiwari -Government Advocate for respondents/State.  
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ORDER

*Per. Justice Anand Pathak*

The instant MCC has been preferred by the applicants seeking restoration of Writ Appeal No3434/2025, which was dismissed for want of prosecution vide order dated 05.05.2026 passed by Registrar J-1 in compliance of the common conditional order dated 11.03.2026 passed by co-ordinate Division Bench of this Court.

2. Learned counsel for the applicants submit that the dismissal of the appeal was neither deliberate nor intentional, but occurred due to circumstances beyond the control of applicants and the arguing counsel, therefore, the applicants ought not to be made to suffer irreparable prejudice on account of such unavoidable procedural circumstances. Hence, learned counsel for the applicants prays for restoration of W.A. No.3434/2025 to its original number.

3. Heard.



4. The reasons assigned by learned counsel for the applicants appear to be genuine and *bonafide*. Looking to the nature of cause and *bona fide* intents as well as 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), the present application deserves to be and is hereby allowed.

5. At this stage, instead of imposing cost, a suggestion was given to counsel of applicants to visit at **Bal Niketan Trust, Near Nadra Bus Stand, Hamidia Road, Bhopal**, with some food items/snacks/fruits of Rs.2,500/- (Rupees Two Thousand Five Hundred Only) and spend an 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.

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

7. Graceful enough in his disposition, suggestion is readily accepted by counsel for the applicants and he undertakes that applicants would not only visit the mercy home but would also carry some food items of Rs.2,500/- with them and spend one hour time with them to understand them and to satisfy themselves while doing such a pious work.

8. Appreciating the gesture shown by counsel for the applicants 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 and satisfy their soul. It is expected that



any Government Advocate or other advocate may also accompany the counsel for this purpose.

9. 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.

10. 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. Policy makers 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.

11. Therefore, keeping the said spirit, counsel for the applicants is



directed to submit a report regarding his visit to **Bal Niketan Trust, Near Nadra Bus Stand, Hamidia Road, Bhopal** within fifteen days elaborating their experience and status of mercy home with suggestions, if any, in the litigation (W.A. No.2164/2025), which is going to be restored by this order.

12. On submission of the report and affidavit as accepted by counsel for the applicants, W.A. No.2164/2025 shall be restored to its original number. Accordingly, instant application for restoration is allowed subject to compliance of the direction as referred above and Writ Appeal No.2164/2025 is restored to its original number.

13. Copy of this order be kept in the file of W.A. No.2164/2025 for record/compliance purpose.

14. 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.

15. With the aforesaid, the application stands disposed of.

(ANAND PATHAK)  
JUDGE

(B. P. SHARMA)  
JUDGE

L.Raj