

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3168 OF 2015

Shivaji Nathu Shaste	..Petitioner
Versus	
The Assistant Commissioner of Police and ors.	..Respondents

Mr. Debajyoti Talukdar, advocate for the petitioner.
Mr. K. V. Saste, APP for the State.

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.**

DATE : 1st MARCH, 2016.

P. C. :

The above petition arises out of an externment order dated 27th February, 2015 passed under Section 56(1)(a)(b) of the Maharashtra Police Act by the Deputy Police Commissioner, Zone-I, Pune City. By the said order, the petitioner has been externed for a period of two years from the jurisdiction of Pune Police Commissionerate and Pune District. This order was challenged by the petitioner by filing an appeal under Section 60 of the Maharashtra Police Act before the Divisional Commissioner, Pune. The petitioner's appeal is rejected by communication dated 11th May, 2015 by the Deputy Divisional Commissioner, Pune Division on the ground that limitation to file an appeal is 30 days and the petitioner has filed the appeal after 46 days.

3. It appears that the petitioner along with the appeal did not file an application for condonation of delay. In our opinion, the Divisional Commissioner ought to have given an opportunity to the petitioner to explain the delay that had occurred in filing the appeal. In the above circumstances, we pass the following order:

(i) The communication dated 11th May, 2015 of the Deputy Divisional Commissioner, Pune District is quashed and set-aside.

(ii) The petitioner is at liberty to file a separate application explaining the delay that has occurred in filing the said appeal.

(iii) The Divisional Commissioner thereafter shall take an appropriate decision on the delay condonation application within a period of four weeks from the date of filing of the same and, in the event, the delay is condoned, decide the petitioner's appeal under Section 60 of the Maharashtra Police Act on its own merits.

4. In the light of the above order, the petition stands disposed of.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]