

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.6615 OF 2014

Vidya Prasarani Sabha, Purna,
through its President,
Dr.Dattatraya s/o Ramchandra
Waghmare, age: 80 yrs,
Occ: Medical Practitioner,
R/o Purna, Tq. Purna,
District Parbhani.

Petitioner

Versus

01 The State of Maharashtra,
through the Collector,
Parbhani, District Parbhani.

02 The Section Officer,
State Information Commission,
Circuit Bench at Aurangabad.

03 The Assistant Charity Commissioner,
Parbhani (Appellate Authority),
Tq. & District Parbhani.

04 Shri Madhukar Hiraji Muley,
age: major, Occ: Business,
R/o Muley Galli, Shivaji Road,
Purna, Tq. Purna, Dist.Parbhani.

Respondents

Mr.P.N.Kalani, advocate for the petitioner
Mr.S.B.Pulkundwar, A.G.P. for Respondents No.1 to 3.
Mr.S.V.Kuptekar, advocate for Respondent No.4.

CORAM : S.B.SHUKRE, J.
DATE : 23rd January, 2017

ORAL JUDGMENT :

1 Heard. Rule. Rule made returnable forthwith and heard finally by consent of learned Counsel for respective parties.

2 It is the contention of learned Counsel for the petitioner that copy of the order dated 09.10.2013 was received by the petitioner on

20.01.2014 and the limitation period of 90 days was to be calculated in such a case not from the date of the impugned order, but from the date of its receipt. He further submits that if the limitation is calculated from 20.01.2014, it was to expire on 19.04.2014. He also submits that Second Appeal was filed on 15.04.2014, which was well within limitation. He further submits that paragraph no.2 of the Memo of Appeal gave the details as to how the Second Appeal was within limitation and yet, it was rejected at admission stage without giving any consideration to all these facts present on record.

3 Learned A.G.P., appearing for Respondents No.1 to 3, submits that appropriate orders be passed. Learned Counsel for Respondent No.4 submits that the appeal was beyond limitation.

4 On going through the memo of Second Appeal, I find that all the details showing filing of the Second Appeal within limitation were stated, but, same has not been considered in any manner by the second appellate authority. The impugned order, therefore, cannot sustain in law.

5 In the result, petition is allowed. The impugned order is quashed and set aside. The matter is remitted back to the second appellate authority for consideration of issue of limitation afresh, in accordance with law.

6 Rule is made absolute in above terms. No costs.

S.B.SHUKRE
JUDGE

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