

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.12174 OF 2015
(Vijaykumar Dattatraya Bhagwat and others Vs. The State of
Maharashtra and others)

Mr.J.M.Murkute, Advocate for the petitioners.
Mr.S.P.Tiwari, AGP for respondent Nos. 1 and 2.
Mr.P.P.Mandlik, Advocate for respondent Nos. 3 to 5.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 23/02/2017

PER COURT :

1. I have heard the learned Advocates for the respective sides.
2. A Department Appeal u/s 46 Chapter V of the Nanded Sikh Gurudwara Suchkhand Shri Hajur Apchal Nagar Sahib Act, 1956 and thereafter a revision is also provided under Section 47 of the said Act. The appeal is to be filed within 60 days from the date of the order. By the proviso to Section 46(2), the Board hearing the appeal can entertain an application for condonation of delay and enlarge the limitation.
3. The petitioners submit that they would prefer to file an appeal for challenging their termination dated 01/04/2003. It is also informed that an appeal dated 24/08/2004 is already pending before the Board u/s 46.

4. Considering the above, this petition is disposed of. It be noted that this Court has not dealt with the issue as to whether the M.E.P.S. Act would be applicable to the employees of the schools/colleges conducted by the said Gurudwara and as to whether the Act of 1956 and the Maharashtra Bye-Laws of 1975 would preclude filing of an appeal u/s 9 of the M.E.P.S.Act.

5. The petitioners shall appear before the Board on 18/03/2017 at 11.00 a.m. Mr.Mandlik, learned Advocate for respondent No.3, 4 and 5 submits that the Management would also be represented before the Appellate Authority. It is expected that the Appellate Authority, while exercising jurisdiction u/s 46, shall afford a reasonable opportunity of hearing to all the sides and shall decide the appeal of the petitioners within a period of 4 months from the date of appearance.

6. Since the issue as to whether the M.E.P.S. would be applicable to the employees of the Gurudwara has been kept open, the impugned judgment of the Trial Court dated 22/09/2015 in RCS No.404/2004 shall not come in way of the appeal filed by the petitioner.

(RAVINDRA V. GHUGE, J.)