

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION No. 221 OF 2021

Mahesh S. Raikar

..... Petitioner

V e r s u s

The Administrator of Devalayas And
The Mamlatdar of Ponda and 9 Ors

.....Respondents

Mr. Sudesh Walwaikar, Advocate for the Petitioner.

Mr. Shivdatt P. Munj, Additional Government Advocate for the
Respondents No.1 and 2.

Mr. Vivek Dandekar, Advocate for the Respondents No. 3 to 10.

CORAM : M. S. SONAK, J

DATE : 15th June, 2021

P.C.

Heard Mr. Sudesh Walwaikar, learned Counsel for the petitioner and Mr. Vivek Dandekar, learned Counsel for the Respondents No. 3 to 10. Mr. Shivdatt P. Munj, Additional Government Advocate appears for the Respondents No.1 and 2.

2. Mr. Dandekar, learned Counsel for the respondents No.3 to 10 has raised a preliminary objection by pointing out that the petitioner has alternate and efficacious remedy of instituting the appeal before the

Administrative Tribunal against the impugned order dated 18.02.2021 which is marked as Exhibit 'A'(page 22 of the paperbook).

3. Article 248 of the Devasthan Regulation reads as follows:

'248.-Against all the deliberations of the Managing Committee it shall be allowed to appeal to the body of members (mazania); against the latter's resolution, to the Administrator; and against the latter's orders, to the Administrative, Fiscal and Audit Tribunal, except the special cases prescribed under this regulation.'

4. From the aforesaid, it does appear that as against the impugned order made by the Administrator (Mamlatdar), the appeal lies before the Administrative Tribunal.

5. Mr. Walwaikar, learned Counsel states that the petitioner will institute such appeal within a period of 10 days from today. Mr. Dandekar, learned Counsel for the respondents No.3 to 10-the contesting respondents, submits that if such appeal is instituted within 10 days from today, then, the contesting respondents will not raise the issue of limitation involved in the filing of such appeal before the Administrative Tribunal. He clarifies that the contesting respondents will however urge that the appeal before the Administrator(Mamlatdar) instituted by the petitioner was barred by limitation and, therefore, there is no error in the impugned order dated 18.02.2021 made by the Administrator (Mamlatdar).

6. Accordingly, this petition is disposed of with liberty to the petitioner to institute appeal before the Administrative Tribunal to question the impugned order dated 18.02.2021. If such appeal is instituted within 10 days from today, then, the Administrative Tribunal, will decide this appeal, without raising the bar of limitation to the institution of such appeal.

7. Mr. Walwaikar, learned Counsel points out that the petitioner had instituted 2 civil appeals, which are to be found at pages 87 and 91 of this paperbook. He submits that such appeals have not been disposed of by the Administrator (Mamlatdar) till date or, in the alternative, such appeals have been disposed of by the impugned order itself without even adverting to the memo of appeal and the grievances therein.

8. If the appeals at pages 87 and 91 of the paperbook have not yet been disposed of by the Administrator (Mamlatdar), it is open to the petitioner to point this fact to the Administrator (Mamlatdar) and there is no doubt that the Administrator (Mamlatdar) will dispose of such appeals and communicate the order to the petitioner. However, if the Administrator(Mamldar) is of the opinion that even these appeals have been disposed of by the impugned order dated 18.02.2021, then, the petitioner, will be entitled to file 2 additional appeals before the Administrative Tribunal within 10 days from the date of such communication by the

Administrator (Mamlatdar). The Administrator (Mamlatdar) to therefore make appropriate orders on the appeals at pages 87 and 91 of this paperbook as expeditiously as possible and in any case within the period of 30 days from the date of filing of authenticated copy of this order.

9. In case the appeals are instituted by the petitioner within the time limit indicated in this order, then, the Administrative Tribunal to dispose of such appeals as expeditiously as possible and in any case within a period of 4 months from the date of effective service of notice upon the contesting parties.

10. For the aforesaid limited purpose, the parties/their advocates to appear before the Administrator (Mamlatdar) on 21.06.2021 at 03:00PM and file authenticated copy of this order.

11. This petition is disposed of in the aforesaid terms, without going into the rival contentions on merits.

12. All concerned to act on the basis of authenticated copy of this order.

M. S. SONAK, J.

msr.