

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4035 OF 2021

Ayyub Allabaksha Sayyad.

...Petitioner.

Versus

The State of Maharashtra & Others.

..Respondents.

Mr. Manoj Shirsat i/b P. Padmanabh & Associates for the Petitioner.

Mr. M. H. Mhatre, APP for the Respondent-State.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.

Date : **January 14, 2022.**
[Through video conferencing.]

P. C. :

1. The present petition is filed for direction to the State Government to hear the appeal preferred by Petitioner, being Appeal No. 82 of 2021 pending before the Divisional Commissioner, Pune Division, Pune, filed under section 60 of the Maharashtra Police Act (for short "the said Act"). The brief facts of the present case are that the police inspector, Chawadi Police Station, Solapur submitted a proposal under section 55 of the said Act against the Petitioner seeking externment of Petitioner alongwith others, alleging that the Petitioner and others were involved as a gang in gambling activities.

2. Respondent No.3 after considering the proposal and after calling explanation from the Petitioner, submitted a proposal dated 23rd March 2021 to Respondent No.2 for externing the Petitioner along with others from Solapur city, Solapur district, Osmanabad district and

Indapur taluka of Pune district for two years.

3. Respondent No.2 after considering the case of Petitioner and reports submitted by Respondent No.3, passed the order dated 5th May 2021 thereby externing the Petitioner from Solapur city, Solapur district, Osmanabad district and Indapur taluka of Pune district for the period of two years. The Petitioner feeling aggrieved by the order dated 5th May 2021, filed an appeal bearing Appeal No.82 of 2021 before Respondent No.1, praying thereby to set aside the order dated 5th May 2021 passed under section 55 of the said Act.

4. Heard learned counsel appearing on behalf of the Petitioner. It is submitted that the appeal challenging order dated 5th March 2021 was filed on 4th June 2021 and though a period of six months has lapsed, no decision has been taken by the appellate authority on the appeal filed by the Petitioner. It is submitted that the purpose of filing petition would be defeated if the directions are not issued to Respondent No.1 to decide the appeal expeditiously. Accordingly, he prayed for direction to Respondent No. 1 to decide the appeal of the Petitioner expeditiously. For this purpose, learned counsel appearing on behalf of the Petitioner has placed reliance on the order of the co-ordinate bench of this Court, dated 23rd March 2021 passed in Criminal Writ Petition No.1469 of 2021 and prayed for similar orders and directions.

5. Learned APP has no objection if the directions as sought by the Petitioner to expedite the appeal is issued.

6. We have perused the papers and it appears that after the order was passed on 5th May 2021 by Respondent No.2, the Petitioner has filed an appeal under section 60 of the said Act on 4th June 2021 and the same is pending for more than 6 months before Respondent No.1. The appeal which is provided under the said Act, if the same is filed by the Petitioner and if it has not been decided, the purpose of filing of petition would be frustrated. In that view of the matter, we are of the considered view that in this matter directions need to be issued to Respondent No.1 to decide the pending appeal of the Petitioner expeditiously. Accordingly, we pass the following order :

:- O R D E R :-

- [1] Writ petition is partly allowed in terms of prayer clause (a) and thereby it is directed to Respondent No.1 to decide the pending appeal of Petitioner, as expeditiously as possible and in any case within **six weeks** from the date of receipt of a copy of this order. It is further directed to Respondent No.1 to communicate the said decision to the Petitioner.
- [2] Needless to observe that the contentions raised on merits in the said appeal are kept pending to be agitated before the appellate authority.

- [3] It is further made clear that we have not considered the other prayers made in the present petition.
- [4] The petition is accordingly disposed of. No order as to cost.
- [5] All concerned to act upon a copy of this order which is duly authenticated by the Registry of this Court.

[Anil S. Kilor, J.]

[Prasanna B. Varale, J.]