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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.534 OF 2022**

Saurabh S. Malvadkar

... Petitioner.

V/s.

The State of Maharashtra and ors.

... Respondents

Mr. Rahul S. Kadam for the Petitioner.

Mr. K.V. Saste, APP for the Respondent – State.

**CORAM : S.S. SHINDE &
N.R. BORKAR, JJ.**
DATE : 22.02.2022.

P.C.

1] Mr. Rahul Kadam, learned counsel appearing for the petitioner, submits that an order of externment passed by the competent authority on 23.11.2020 externing the petitioner from the municipal limits of Pune and Pimpri-Chinchwad is under challenge in this petition. It is submitted that the petitioner filed an appeal before the appellate authority on 23.12.2020. It is further submitted that the appellate authority has not decided the stay application filed along with appeal within one week from filing of appeal.

2] By inviting our attention to the judgment of Full Bench of this Court (*Coram: A.S. Oka, A.K. Menon and P.D. Naik, JJ.*) in

the case of ***Sachin Yeshwant Pokre vs. Jayprakash M. Jadhav and ors.***¹ and more particularly, in para 12 and 13 thereof, the learned counsel for the petitioner submits that the petitioner has filed the appeal in December 2021 along with stay application, however, the appeal and an application for stay has been kept pending by the appellate authority. Therefore, he prays that the appellate authority may be directed to decide the appeal itself.

3] On the other hand, Mr. K.V. Saste, learned APP appearing for the respondents/ State invites our attention to the orders passed by this Court (*Coram: Nitin Jamdar and Sarang V. Kotwal, JJ.*) in the case of **Mahendra R. Waghmare vs. The State of Maharashtra and ors.**² and also the order passed by this Court (*Coram: Prasanna B. Varale & Anil S. Kilor, JJ.*) in the case of **Vijay @ Pappu Bajrang Phadke vs. The State of Maharashtra and ors.**³, and submits that, this Court in said case did not not give directions to the appellate authority to decide the appeals of those petitioners expeditiously, keeping in view of the fact that there may be old appeals

1 2016(5) Mh.L.J. 23

2 Criminal Writ Petition No. 3535 of 2021 decided on 8.10.2021

3 Criminal Writ Petition No. 320 of 2022 decided on 09.02.2022

filed, prior to the filing of the petitioners' appeal, might be pending before the appellate authority.

4] We have given careful consideration to the rival submissions with able assistance of the learned counsel appearing for the petitioner and the learned APP. We have carefully perused the grounds taken in the petition, annexures thereto and the judgement of the Full Bench in the case of *Sachin Pokre (supra)* and the orders passed by this Court in *Mahendra Waghmare (supra)* and *Vijay @ Pappu Bajrang Phadke (supra)*. We are of the opinion that the appeal filed by the petitioner is pending for considerable period. The petitioner has been externed from the municipal limits of Pune and Pimpri-Chinchwad for two years and out of said period 15 months time is already elapsed. Because of the order passed by the externing authority, the fundamental right of the petitioner to move from one place to another place so also residing at particular place of his choice has been curtailed.

5] In that view of the matter, in the peculiar facts and circumstances of this case, we are inclined to partly allow the petition and direct the appellant authority to decide the appeal itself, as expeditiously as possible and in any case within four weeks from today. Accordingly, we pass the following order :

ORDER

a] Appellate authority, i.e. respondent No.2 - The Divisional Commissioner of Pune Region, Pune is directed to decide the appeal filed by the petitioner, if already not decided, on its own merits and in accordance with law, as expeditiously as possible and in any case within four weeks from today.

b] With aforesaid directions, Writ Petition is disposed of.

(N.R. BORKAR, J.)

(S.S. SHINDE, J.)