

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9519 OF 2023

Mr. Prakash Dinkar Jadhav

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

- Mr. Pradeep Gole, for the Petitioner.
- Ms. M.P. Thakur, AGP for Respondent Nos.1 to 3-State.

CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ

DATE : 1st AUGUST, 2023.

ORAL JUDGMENT : (PER : SUNIL B. SHUKRE, J.)

1. Heard. Rule. Rule made returnable forthwith by consent of learned counsel for the respective parties.

2. Learned AGP waives service of notice for Respondent Nos.1 to 3-State. There is no need to issue notice to every respondents as a limited relief has been sought in this petition and it is against Respondent No.1.

3. We find that appeal filed against the order dated 16th June, 2023 passed by the Divisional Commissioner, Pune – Respondent No.2 is pending before Respondent No.1. We further find that in that appeal,

there is an application being Application No.102 of 2023 seeking stay to the impugned order has been filed. Both the appeal and application seeking stay to the impugned order are pending before Respondent No.1. The grievance of the petitioner is that if appeal cannot be heard finally and disposed of expeditiously, atleast application seeking stay to the impugned order should be decided by Respondent No.1 on its own merits at the earliest.

4. Learned counsel for the petitioner submits that the petitioner had even made another application urging Respondent No.1 to decide the stay application at the earliest, but to no avail.

5. We are of the view that in an appeal like the one in question, it is necessary that an application filed for grant of stay by the appellant is taken up first and decided on its own merits at the earliest. However, that has not happened so far. It is, therefore, necessary to issue appropriate direction, in the interest of justice, for taking suitable decision on the stay application at the earliest. The petition, is therefore, partly allowed. It is directed that Respondent No.1 shall decide Application No.102 of 2023 seeking stay to the impugned order, in accordance with law, as expeditiously as possible after giving due opportunity of hearing to the petitioner within a period of two weeks from the date of service of notice upon all the respondents or from the

date of receipt of the order of this Court whichever is earlier.

6. Rules is made absolute in the above terms. No costs.

7. Petition is disposed accordingly.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]