

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL WRIT PETITION NO.146 OF 2023

PETITIONER : 1 Premdas S/o Tulshiram Tayade
Aged 52 years, Occ. Labour, R/o.
Shegaon, Amravati, Tq. & District –
Amravati.

..VERSUS..

RESPONDENTS : 1 Deputy Commissioner of Police, Zone-
1, Amravati, Tq. & District Amravati.
2 The Divisional Commissioner,
Amravati Division, Amravati.

Mr P. R. Agrawal, Advocate for the Petitioner.
Ms M. H. Deshmukh, Addl. P. P. for the Respondents.

CORAM : **VINAY JOSHI AND VALMIKI SA MENEZES, JJ.**

DATE : **23rd FEBRUARY, 2023.**

ORAL JUDGMENT : **(PER : VINAY JOSHI, J.)**

. **Rule.** Rule made returnable forthwith. Heard finally by consent of the learned Counsel appearing for the parties.

2. The Petitioner has been extenuated by the Respondent No.1 Authority from entire Amravati District for the period of two years *vide* order dated 02.02.2022. The

said order of externment is amenable to be challenged in appeal in terms of Section 60 of the Maharashtra Police Act, 1951. Sub-clause (1) to Section 60 provides that the appeal shall be filed within 30 days from the date of such order. The Petitioner has filed an appeal to the State Government i.e. to the Divisional Commissioner, Amravati, however, he has declined to entertain on account of delay in filing an appeal. The Petitioner raises a challenge to said order dated 02.11.2022 passed by Respondent No.2 The Divisional Commissioner, Amravati.

3. There appears to be delay of seven months in challenging the order. The Petitioner has canvassed a cause for delay in Para 2 of his appeal. Moreover, it has been submitted that due to financial constraints, he was unable to file appeal within stipulated period. The impugned order discloses total non-application of mind. the divisional commissioner has not assigned any reason, while rejecting the appeal. It is settled position of law that the delay shall be liberally construed and to advance the cause of justice, normally it is to be condoned.

4. In view of that we deem it appropriate that the cause shall be decided on merits rather than throwing away on technicalities. In view of above, we hereby condone the delay caused in preferring an appeal to the Divisional Commissioner, Amravati. The Authority shall restore the appeal and after hearing other side shall decide it in accordance with law.

5. Rule is made absolute in above terms.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

TAMBE