



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

936 WRIT PETITION NO. 12507 OF 2023

SK MOHMAD RIYAZ SARDAR ALI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH DISTRICT
COLLECTOR AND OTHERS

...

Advocate for the petitioner : Adv.K.M.Nagarkar
AGP for Respondent-State : Adv.B.A.Shinde

...

AND

WRIT PETITION NO. 5469 OF 2023

NAMDEO GOVIND SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for the petitioner : Adv.K.M.Nagarkar
AGP for Respondent-State : Adv.B.A.Shinde
Advocate for respondent no.3 : Adv.Akash Gade h/f.
Adv.P.R.Karpe

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 10.04.2024

P.C. :

1] The learned counsel for the petitioners submits that the Reference Court has dismissed the Reference as the petitioners failed to adduce oral as well as documentary evidence in the reference. The learned counsel for the petitioners further submits that this Court in various judgments has already held that the Reference Court has to

decide the reference on merits. The learned counsel relies upon the order passed by this Court dated 01.03.2024 in Writ Petition No.2394 of 2024 and submits that this Court, by earlier order, has set aside the award of the Reference and remanded the matter back.

2] The learned AGP has not seriously disputed the legal proposition canvassed, however submits that there is delay in filing the petition and that on account of delay the petition be dismissed or a conditional order be passed.

3] In response to the submissions of the learned AGP, the learned counsel for the petitioner submits that the petitioners would not claim any interest or statutory benefit for the delayed period from the date of dismissal of the reference from 19.09.2018 till filing of the petition i.e. till 24.08.2023 in Writ Petition No.12507/2023 and from 21.08.2017 till filing of the petition i.e. till 15.12.2022 in Writ Petition No.5469 of 2023.

4] In view of the submissions made, the awards passed by the Reference Court are set aside and the matters are remitted back to the Reference Court for deciding the reference on merits.

5] The petitioners are permitted to lead evidence before the Reference Court.

6] The learned Advocate for the petitioners submits that he would appear before the Reference Court on 08.05.2024 and that they would also tender their evidence before the Reference Court on the date given by the Reference Court.

7] The Reference Court to decide the reference expeditiously. In the event the reference is answered in favour of the petitioners, the reference court would not grant interest or statutory benefits for the delayed period from the date of impugned order of the reference court till the filing of the present writ petitions.

8] In the event, the petitioners fail to lead evidence before the Reference Court, the Reference Court would be entitled to proceed further to pass appropriate order.

[ARUN R. PEDNEKER]
JUDGE

DDC