

Guna Gaonkar and Another Vs Administrative Tribunal and Others

Court: Bombay High Court (Goa Bench)

Date of Decision: Feb. 3, 2006

Acts Referred: Criminal Procedure Code, 1973 (CrPC) â€” Section 378(2), 417(4)

Land Acquisition Act, 1894 â€” Section 18

Limitation Act, 1908 â€” Section 10, 11, 12, 13, 14

Limitation Act, 1963 â€” Article 114, 250, 255, 26, 10

Motor Vehicles Act, 1939 â€” Section 58(3)

Citation: (2006) 3 ALLMR 389 : (2006) 3 BomCR 46

Hon'ble Judges: Khandeparkar R.M.S., J

Bench: Single Bench

Advocate: S.D. Lotlikar with S.Y. Thali, for the Appellant; S.R. Rivonkar and S.M. Walawaikar, for the Respondent

Final Decision: Allowed

Judgement

Khandeparkar R.M.S., J.

The petitioners challenge the order dated 21.5.2001 passed by the Administrative Tribunal, Goa in Devasthan

Appeal No. 46/01 as being contrary to the provisions of law comprised under the Regulations governing Hindu Temples (Devasthanans) of Goa,

Daman & Diu in terms of Diploma Legislative No. 615 dated 30.3.1933 and amended by Diploma Legislative No. 1898 dated 29-5-1959

(hereinafter called as "the said Devasthan Regulations").

2. The few facts relevant for the decision are that:

The Mahajans of Shree Bhimika Devasthan at Chopdem, Pernem Goa and the said Devasthan are governed by the provisions of the said

Devasthan Regulations. On 31.12.1999, the Managing Committee of the said Devasthan was dissolved by the Government in exercise of powers

under the said Devasthan Regulations and the Mamlatdar of Pernem was appointed as the Administrator in place of the Committee for the day

today management of the said Devasthan. On 5.1.2000, the respondent No. 2, the then Mamlatdar of Pernem who was Administrator of the said

Devasthan issued an order appointing 5 persons to represent and/or assist him in the management of the Devasthan and to attend the day today

rituals. On 7.1.2000, the Government issued an order appointing Bhagirath Gaonkar as the Chairman of the Ad hoc Committee of the said

Devasthan. The said order dated 7.1.2000 was challenged by the respondent No. 3 by filing Writ Petition No. 5/2000. However, the said writ

petition was withdrawn pursuant to the Government withdrawing the order dated 7.1.2000 and further directing the Mamlatdar of Pernem to

manage the day today affairs of the Devasthan till the new Managing Committee was elected. Simultaneously, the respondent No. 2 was also

directed to hold elections to the Managing Committee of the Devasthan within six weeks from the date of the said order. Consequently, the

Mamlatdar published the list of capable members in accordance with the provisions of the Devasthan Regulations and by notice published in the

daily ""Gomantak"" invited objections to the said list. The said list was published on 22.2.2000. The respondent No. 3 filed certain objections to the

said list on 24.2.2000. The respondent No. 2 after hearing the parties, by its order dated 8.3.2000 rejected the objections filed by the respondent

No. 3. The elections thereupon were scheduled to take place on 11.3.2000. The respondents No. 3 and 4 meanwhile filed an appeal before the

Administrative Tribunal being Devasthan Appeal No. 29/2000 against the order of the Mamlatdar passed on 8.3.2000 since in terms of the

statement made in Writ Petition No. 5/2000, the elections were required to be held within six weeks from 17.1.2000, the day on which the writ

petition was withdrawn and that period had already expired. The Government filed Misc. Civil Application No. 346/2000 seeking extension of

time, more particularly in the circumstances where the Administrative Tribunal had stayed the election proceedings. The said Misc. Civil

Application was disposed of by this Court directing the Authorities to hold elections after disposal of the Devasthan Appeal No. 29/2000, which

was then pending before the Administrative Tribunal. On 11.10.2000, the Administrative Tribunal dismissed the Devasthan Appeal as being not

maintainable against the order dated 8.3.2000 passed by the Mamlatdar in his capacity as Administrator in place of the Managing Committee of

the Devasthan. The said order of the Tribunal was sought to be challenged by the respondent No. 3 by filing Writ Petition No. 364/2000 which

came to be dismissed by the Order dated 9.1.2001. The respondent No. 3, thereafter, presented an appeal before the Mamlatdar, respondent

No. 2 on 31.1.01 against its order dated 8.3.2000 to be considered by the General Body of the Devasthan in terms of the provisions comprised

under the said Devasthan Regulations. The said appeal was accompanied by an application praying for condonation of delay in filing the appeal by

the respondent No. 3. The respondent No. 2 pursuant to the said appeal and the application, issued two notices by which General Body of the

Devasthan was sought to be summoned for meeting on 27.3.2001 to discuss and deliberate upon the said appeal and the application filed by

respondent No. 3. Second notice was also issued to the Mahajans calling upon them to attend the said meeting and to elect a new Managing

Committee for the triennium of 2000 to 2003 at the meeting to be held on 28.3.01. Both these notices were issued on 13.3.2001. The petitioners

preferred an appeal against the said notice dated 13.3.01 whereby the respondent No. 2 had sought to convene a general body meeting to discuss

and deliberate upon the appeal and the application filed by respondents No. 3 and 4 on the ground that the notice issued in the appeal filed by the

respondent was without jurisdiction. The said appeal was registered as Devasthan Appeal No. 46/01 and on 23.3.01, the Tribunal passed an

interim order staying the proceedings which were scheduled to take place on 27.3.01 to discuss and deliberate upon the appeal and the application

filed by respondents No. 3 and 4. It appears that simultaneously, respondent No. 3 also filed a suit against the said second notice issued by

respondent No. 2 for holding elections and therein an ex parte order came to be passed on 23.3.01, restraining the respondent No. 2 to hold

elections and the said order was challenged by the petitioners by filing Writ Petition No. 93/2001 and this Court under order dated 27.3.01 stayed

the order of the trial Court further directing the respondent No. 2 to proceed with the elections, by re-notifying the schedule for the elections in

terms of the Devasthan Regulations and, accordingly, the elections for the Managing Committee of the said Devasthan were held on 7.4.01. On

21.5.01, the Administrative Tribunal dismissed the Devasthan Appeal No. 46/01 and directed the respondent No. 2 to call General Body Meeting

in terms of Article 250 of the Devasthan Regulation within 15 days to discuss and deliberate upon the appeal and the application filed by

respondents No. 3 and 4. Aggrieved by the said order, the petitioners have filed the present petition.

3. Drawing attention to Articles 26, 250 and 255 of the said Devasthan Regulation, as well as Section 29(2) of the Limitation Act, 1963, the

learned Senior Counsel for the petitioners submitted that in terms of the said provisions of law, the appeal against the order of the Mamlatdar or

the Administrator appointed in place of the Administrative Committee, in relation to the objections raised in respect of inclusion or exclusion of the

names of the capable members for being entitled to vote and contest the elections for the Managing Committee, has to be filed within 10 days and

in case the aggrieved party fails to present such appeal within the period of 10 days, the General Body of the Devasthan does not enjoy jurisdiction

to entertain or deal with such an appeal. In view of the specific provisions comprised u/s 29(2) and bearing in mind the provisions of the said

Devasthan Regulations being a special statute dealing with the affairs relating to Devasthan in the State of Goa and the provisions of law comprised

under Article 255 of the said Devasthan Regulations being specifically providing clear bar for entertaining an appeal preferred beyond the period of

limitation prescribed under the said Devasthan Regulations, the provisions of the said regulations would prevail over the provisions of Limitation

Act and the provisions of Sections 4 to 24 thereof would not apply to such proceedings. Attention was also drawn to the decisions in cases of

Sakuru Vs. Tanaji, ; Mohd. Ashfaq Vs. State Transport Appellate Tribunal, Uttar Pradesh and Others, and Lachhman Das Arora Vs. Ganeshi Lal

and Others, .

4. On the other hand, the learned Advocate appearing for the respondents No. 3 and 4 submitted that there was no delay as such caused in filing

the appeal in the facts and circumstances of the case. According to the learned Advocate, respondents No. 3 and 4 were pursuing their remedy

against the order of the Administrator since the time they were informed about the dismissal of their objections and it was only after the decision of

this Court in Writ Petition No. 364/2000 dated 18.1.01 that the petitioners having been made aware of the legal position with necessary clarity,

presented the appeal to the Mamlatdar to be placed before the General Body and simultaneously also filed application for condonation of delay.

According to the learned Counsel for the respondents, therefore, the delay was not deliberate in the peculiar facts of the case and considering the

provisions of Section 29(2) of the Limitation Act which provides that in the absence of express exclusion of the provisions of Sections 4 to 24,

those provisions will also apply to the proceedings under any special or local law. He further submitted that such exclusion cannot, be implied, but

there should be express provision in that regard and sought to rely upon the decision in the case Mangu Ram Vs. Municipal Corporation of Delhi,

in support of his contention. According to the learned Advocate, the provisions of Sections 4 to 24 are to be read in Article 255 of the said

Devasthan Regulations.

5. Article 26 of the Devasthan Regulations provides that :

The interested persons who may intend to be enrolled in the catalogue or in the list of capable members, or to object to the last revision or the list

prepared, shall present, till 31st January, against receipt, to the Managing Committee, their petitions or objections in an ordinary paper, with the

supporting documents, which petitions or objections shall be decided by the Committee till 10th February.

This provision apparently discloses that the application for inclusion or objection to the list of members prepared by the Managing Committee

should be submitted on or before 31st January of the year in which such list is displayed and such application or objection should be decided by

the Committee on or before 10th February of the same year.

6. Para 1 to Article 26 of Devasthan Regulations provides that :

The clerk of the Committee shall facilitate at the records room the inspection of the catalogue and other concerned information, demanded by the

attorney of the Committee members (mazanes) and associates, when they are applicants, from 20th to 31st January, and he shall issue

independently of order, the certificates that may be asked of him for the purposes of this article.

This provision of law obviously discloses that the concerned parties will have right to inspect the records to verify the decision on the application

and/or objection filed by the concerned person and in case, the concerned person requires any certificate, the same should be issued by the Clerk

of the Committee without any delay.

7. Second para to the said Article 26 provides that:

An appeal may be lodged against the decision of the Committee, granting or rejecting the request in the first case, by the attorney and in the

second, by the interested person, to the body of members (mazanias) or against the letter's deliberation, taken in its session of the month of

March, to the Administrative, Fiscal and Audit Tribunal, within the time limits prescribed under the respective Regulation.

In terms of this provision, any appeal lodged against the decision of the Committee, would lie to the General Body of the concerned Devasthan and

against the decision of the General Body, it would lie to the Administrative Tribunal.

8. Article 250 which is found in the Chapter relating to the appeals in the said Devasthan Regulations provides that:

The appeal being to the body of members (mezania) or association, the filing shall take place within 10 days from the Notification of the respective

deliberation, it being the petition, duly supported, handed over to the Administrator who, by order, shall summon the body of members (mazania)

to meet in an extraordinary session, if required.

Evidently, this provision discloses that an appeal has to be filed within 10 days from the date the decision is notified to the concerned party or

made known to the public by issuance of notification in that regard and such an appeal should be handed over to the Administrator i.e. the

Mamlatdar who shall summon the General Body to discuss and deliberate upon such appeal.

9. The provisions of law comprised under Article 255 of the said Devasthan Regulations which are very relevant for the decision in the matter read

thus :

It shall not be taken cognizance of any appeal filed or followed beyond the time limit, and the appealed decision shall be considered definitive.

This provision of law, therefore, categorically provides that on expiry of the period prescribed for filing of the appeal under the provisions of the

said Devasthan Regulations, the authority otherwise competent to take cognizance of such appeal, shall not take cognizance of such appeal filed

beyond period of limitation. In other words, in case of failure to file appeal within the prescribed period, the decision which was sought to be

appealed beyond the period of limitation shall be deemed to have attained finality and the appellate authority will have no jurisdiction to entertain

any such appeal filed beyond the prescribed period.

10. It would be worthwhile to take note of Section 29(2) of the Limitation Act at this stage itself and it provides that:

Where any special or local law prescribed for any suit, appeal or application a period of limitation different from the period prescribed by the

Schedule, the provisions of Section 3 shall apply as if such periods were the periods prescribed by the Schedule and for the purpose of

determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in Sections 4

to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

The provision u/s 29(2), therefore, specifically provides that in case the provisions contained in Sections 4 to 24 are expressly excluded by any

special or local law, then those provisions would not apply to the proceedings under the said special or local law.

11. As already seen above, Article 255 specifically and expressly provides that the Appellate Authority shall not take any cognizance of any

appeal beyond the period of limitation prescribed for filing such appeal. It further provides that in case of failure to file such appeal within the

period of limitation, the order which was not appealed from, would attain the finality. In other words, the provisions under Article 255 expressly

provides that there is no scope for condonation of delay or extension of period of limitation under any circumstances, coupled with the specific bar

being prescribed for appellate authority to take cognizance of any appeal filed beyond the period of limitation. Being so, there is hardly any scope

to contend that such a provision cannot be construed as provision expressly excluding the applicability of the provisions of law comprised u/s 5 of

the Limitation Act.

12. It is also to be noted that the provisions of law comprised under the said Devasthan Regulations do not entitle the aggrieved party to file or

present an appeal directly to the General Body of the Devasthan. It provides that the appeal has to be presented to the Administrator i.e. the

Mamlatdar and on presentation of such appeal, the Mamlatdar is empowered to summon the meeting of the General Body. In other words, neither

the General Body nor the Managing Committee of the Devasthan can independently entertain any such appeal nor can summon the meeting to

deliberate and discuss upon such appeal. The jurisdiction or authority to deal with such appeal can be assumed by the General Body of the

Devasthan only upon the meeting thereof being summoned by the Mamlatdar consequent to presentation of appeal to the Mamlatdar. In other

words, the prerequisite for assuming the jurisdiction by a General Body to deal with such appeal is summoning of the meeting of the general body

by the Mamlatdar for consideration of such appeal and pre-requisite for Mamlatdar to summon such meeting is presentation of the appeal to him

by the aggrieved party. It is well settled that in the absence of existence of jurisdictional facts, the concerned authority cannot itself assume the

jurisdiction to deal with appeal which is required to be dealt with only on existence of such jurisdictional facts. In case of a general body to assume

the jurisdiction to deal with such appeal there has to be appeal presented to the Mamlatdar who should summon the meeting of the general body,

and not otherwise.

13. It is also to be noted that while exercising the power for summoning the meeting of general body, the Administrator does not perform any

judicial or quasi judicial function. It is purely an administrative function of the Administrator. This has relevancy also while considering the

applicability or non-applicability of the provisions of law comprised under Sections 4 to 24 of the Limitation Act, 1963. Section 5 of the Limitation

Act which deals with the power to condone the delay specifically provides that :

Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be

admitted after the prescribed period, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or

making the application within such period.

The explanation to Section 5 provides that the fact that the appellant or the applicant was misled by any order, practice or judgment of the High

Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of the said section. Obviously, the power of

condonation available u/s 5 is given to the Court and not any other body. Indeed, the law on this point is well settled and does not require further

deliberation in that regard.

14. At this stage, it would be worthwhile to take note of the provisions of Section 18 of the Land Acquisition Act, 1894, which pertains to right of

the interested parties to seek reference to the Reference Court in case of a party being aggrieved by the award passed by the Land Acquisition

Officer in relation to the land acquired in which he has interest. While dealing with the said provision, this Court and the Apex Court had occasions

to consider the scope of power of the Authority entertaining the application for reference as well as whether the delay in filing such application

could be condoned. The Full Bench of this Court, in Suresh Marutrao Jadhav Vs. State of Maharashtra and Another, , relying upon the Judgment

of the Apex Court in State of Punjab and Another Vs. Satinder Bir Singh, held that the Collector u/s 18 of the Land Acquisition Act merely

performs a statutory function and does not act as a Court and the dichotomy of the Collector and the Court cannot be lost sight of.

15. In Sakuru's case (supra), it was ruled by the Apex Court that the provisions of Limitation Act, 1963 apply only to the proceedings in the Court

and not to the appeal or applications before the bodies other than the Court such as quasi judicial Tribunals or executive authorities,

notwithstanding the fact that such bodies or authorities may be vested with certain specified powers conferred on Courts under the Code of Civil

or Criminal Procedure.

16. In Mohd. Asfaq's case (supra) while dealing with the scheme of Chapter IVA of the Motor Vehicles Act, 1939 and considering the provisions

of Section 29(2) of the Limitation Act as well as Section 58(2) of the Motor Vehicles Act, held that Section 29(2) of the Limitation Act, 1963

makes Section 5 applicable in case of an application for renewal unless its applicability can be said to be expressly excluded by any provisions of

the Act and that Sub-section (3) of Section 58 in so many terms says that the Regional Authority may condone the delay in making an application

for renewal and entertain it on merits provided the delay is of not more than 15 days. Considering the same, it was held that it clearly means that if

the application for renewal is filed beyond time by more than 15 days, the Regional Transport Authority shall not be entitled to entertain it, or in

other words, it shall have no power to condone the delay. Referring to Section 58, it was held that there was express provision in Sub-section (3)

that delay in making an application for renewal shall be condonable only if it is of not more than 15 days and that expressly excludes the

applicability of Section 5 in cases where an application for renewal is delayed by more than 15 days.

17. In fact, the case in hand is squarely covered by the decision of the Apex Court in Mohd. Asfaq's case (supra) wherein Section 58(3) of the

Motor Vehicles Act, 1939 specifically provided that the Authority can condone the delay provided application was filed within 15 days after

expiry of the period of limitation prescribed for renewal of the licence. It means that there was power given to the Authority to condone the delay

limited to the period of 15 days. In other words, even in cases where the Authority is statutorily empowered to condone the delay, once such

power is circumscribed by referring to certain number of day, the Apex Court has held that applicability of provisions of Section 5 stands expressly

excluded after the expiry of such period. In the case in hand, the provision specifically states that the appeal cannot be entertained beyond the

period of limitation prescribed and further provides that the Authority should not take cognizance of such appeal filed beyond the period of

limitation. This provision, therefore, in my considered opinion, expressly excludes the applicability of provisions of law comprised u/s 55 of the

Limitation Act.

18. It is also to be noted that the appeal in the case in hand, was required to be presented to the Administrator and the provisions of law

comprised under Article 26, read with Article 250 of the Devasthan Regulations disclose that the General Body has to deliberate upon the appeal

filed by the party. It does not provide for the General Body to entertain and deliberate upon the said appeal independently of reference of such

application by the Administrator consequent to the summoning of the General Body Meeting by the Administrator. The provision of Article 250

speaks of only reference of an appeal to the General Body by the Administrator and no other proceedings. The Administrator performs his only

administrative functions which are of ministerial nature and not of judicial or quasi judicial nature. Being so, neither the Administrator would have

jurisdiction to entertain the appeal nor even condone the delay, nor the General Body could exercise any such power. This conclusion is inevitable

also bearing in mind decision in relation to the role of the Authority referred to above under the provisions of the Land Acquisition Act.

Undoubtedly, the provisions of the Land Acquisition Act are different from those under the Devasthan Regulations. But the decision assumes

importance while considering the scope of power of the Administrator under Article 250 and the nature of such power as well as the manner in

which the General Body of the Devasthan gets jurisdiction to deal with and deliberate upon the appeal filed by an aggrieved party.

19. Before parting with the matter, it is necessary to refer to the decision of the Apex Court in Mangu Ram's case (supra), sought to be relied

upon on behalf of the respondents No. 3 and 4. The Apex Court, therein, while dealing with the provisions comprised u/s 417(4) of the Code of

Criminal Procedure, 1898 which corresponds to Section 378(2) had held that the language of Section 417(4) is mandatory and compulsive and it

provides in no uncertain terms that no application for grant of special leave to appeal from an order of acquittal shall be entertained by the Court

after expiry of sixty days from the date of order of acquittal. While considering whether in such circumstances the provisions of Section 5 of the

Limitation Act would apply or not, it was held that:

The conclusion is, therefore, irresistible that in a case where an application for special leave to appeal from an order of acquittal is filed after the

coming into force of the Limitation Act, 1963, Section 5 would be available to the applicant and if he can show that he had sufficient cause for not

preferring the application within the time limit of sixty days prescribed in Sub-section (4) of Section 417, the application would not be barred and

despite the expiration of the time limit of six days, the High Court would have the power to entertain it.

It is to be noted that those observations were made in relation to the appeal against acquittal filed in terms of the provisions of the Code of Criminal

Procedure. It is also to be noted that Article 114 of the Limitation Act under second division of the Schedule of the said Act prescribes certain

period of limitation in relation to the appeal under the Code of Criminal Procedure. In other words, the Limitation Act specifically applies to the

provisions under the Code of Criminal Procedure. In that regard, the provisions u/s 29(2) of the Limitation Act will have to be understood bearing

in mind the specific applicability of the Limitation Act to the proceedings under the provisions of the Code of Criminal Procedure. Thus, it is to be

noted that the observations of the Apex Court were while dealing with the issue as to whether the time limit of sixty days prescribed under Sub-

section (4) of Section 417 of the Code of Criminal Procedure for making application for special leave under Subsection (3) of that Section could

be extended by invoking power u/s 5 of the Limitation Act, 1908? In that regard, the Apex Court, in its earlier decision in Kaushalya Rani Vs.

Gopal Singh, had held that Sub-section (4) of Section 417 lays down a special period for application by the complainant for special leave to

appeal against the order of acquittal and in that sense rule of 60 days bar was a special law ie. the rule of limitation which specifically provided for

in the Code itself which does not ordinarily provide for a period of limitation for appeals or applications and, therefore, it was pointed out that since

special rule of limitation laid down in Sub-section (4) of Section 417 of the Code is a special law of limitation governing appeals by private

prosecutors, there is no difficulty in coming to the conclusion that Section 5 of the Limitation Act was not applicable in view of Section 29(2) of the

Limitation Act. While distinguishing the said case, it was held that:

there can be no doubt that if the present case were governed by the Indian Limitation Act, 1908, this decision would wholly apply and the

Municipal Corporation of Delhi would not be entitled to invoke the aid of Section 5 of that Act for the purpose of extending the period of limitation

of sixty days prescribed in Sub-section (4) of Section 417 for an application by a complainant for special leave to appeal against an order of

acquittal. But the Indian Limitation Act, 1908 has clearly no application in the present case, since that Act is repealed by the Limitation Act, 1963

which came into force with effect from January 1, 1964 and the present case must, therefore, be decided by reference to the provisions of the

Limitation Act, 1963.

Further holding that there is an important departure made by the Limitation Act, 1963 in so far as the provision contained in Section 29, Sub-

section (2) is concerned, it was observed that:

Whereas, under the Indian Limitation Act, 1908, Section 29, Sub-section (2), Clause (b) provided that for the purpose of determining any period

of limitation prescribed for any suit, appeal or application by any special or local law, the provisions of the Indian Limitation Act, 1908, other than

those contained in Sections 4, 9 to 18 and 22, shall not apply and, therefore, the applicability of Section 5 was in clear and specific terms

excluded, Section 29, Sub-section (2) of the Limitation Act, 1963 enacts in so many terms that for the purpose of determining the period of

limitation prescribed for any suit, appeal or application by any special or local law the provisions contained in Sections 4 to 24, which would

include Section 5, shall apply in so far as and to the extent to which they are not expressly excluded by such special or local law.

Considering the said phraseology in the new Section 29(2) of the Limitation Act, 1963 and the provisions of Section 417(4) of the Code of

Criminal Procedure, the above quoted observations were made by the Apex Court. The decision nowhere holds that the express exclusion would

mean verbatim reproduction Section 29(2) of the Limitation Act, 1963. Whether applicability of Sections 4 to 24 of the Limitation Act is expressly

excluded or not, is to be understood bearing in mind the provisions of the special statute or the local law. It is also to be noted that the ratio of the

decision cannot be understood by picking up, out of context, one or two sentences from the Judgment. In order to understand the ratio of a

decision, it is necessary to ascertain the facts of the case, the points which arise for consideration and the decision on those points, as has been

held by the Apex Court in the matter of Union of India (UOI) and Others Vs. Dhanwanti Devi and Others, . Being so, observations by the Apex

Court in relation to the scope of Section 417(4) of the Code of Criminal Procedure will be of no help to understand the scope of the proceedings

comprised under Article 255 of the Devasthan Regulations. Therefore, the decision does not support the contention sought to be raised on behalf

of the respondents.

20. Considering various provisions of law, therefore, the impugned order which rules about the applicability of Section 5 of the Limitation Act to

the proceedings before the General Body of Devasthan while exercising the power under Article 26 read with 250 of the said Devasthan

Regulations cannot be sustained and is liable to be set aside.

21. In the result, therefore, the petition succeeds. The impugned order is, thereby, quashed and set aside. It is held that the provisions of Sections 4

to 24 are not applicable to the proceedings under Articles 26, read with 250 of the said Devasthan Regulations. Consequently, the appeal which

was sought to be filed by respondents No. 3 and 4 before the respondent No. 2 stands rejected, being not maintainable. The Rule is made

absolute in the above terms with no order as to costs.