

Mr. Eknath Sawaikar @ Ekanata Savoikar, Ansd Ors Vs Shree Anant Devasthan And Ors

Court: Bombay High Court (Goa Bench)

Date of Decision: Feb. 7, 2019

Acts Referred: Devasthan Regulation, 1933 " Article 26, 250

Hon'ble Judges: M.S. Sonak, J; Prithviraj K. Chavan, J

Bench: Division Bench

Advocate: Ryan Menezes, Parag Wagle, Neha Kholkar, P. Dangui, Arun A.S. Talaulikar, V. Sardessai, Priyanka Kamat, Sagar Dhargalkar

Final Decision: Disposed Off

Judgement

Per M.S.Sonak, J

1. Heard Mr. Ryan Menezes, learned counsel for the petitioners in all these petitions, Ms. P. Kamat, Mr. Sagar Dhargalkar, Mr.V.Sardessai, Mr.

Arun Taulikar and Ms. Neha Kholkar, learned Additional Government Advocates for respondent no.3 and Mr. Dangui, Government Advocate for

respondent no.3 in all these petitions and Mr. Parag Wagle, learned counsel for respondent nos.1 and 2 in all these petitions.

2. Rule is made returnable forthwith with the consent of and at the request of learned counsel for the parties.

3. The only grievance raised by the petitioners in these petitions is that they have instituted an appeal under Article 26 Para 2 of the Devasthan

Regulation, questioning the deliberation dated 12.4.2018 before the body of members (mazania) of respondent nos.1 and 2 and such appeals are not

being disposed of.

4. Mr. Wagle, learned counsel for respondent nos.1 and 2, points out that under Article 250 of the Devasthan Regulation, the appeal to the body of

members (mazania) has to be first handed over to the Administrator (Mamlatdar) respondent no.3 herein. Thereafter the Administrator (Mamlatdar),

by an order has to summon the body of members (mazania) to meet in an extraordinary session, if required, in order to consider such appeals. He

points out that no such procedure has been adopted by the petitioners in the present case and, therefore, there was no obligation on the body of

members (mazania) to directly consider and dispose of such appeals. He points out that there is also the time of limitation involved.

5. Mr. Ryan Menezes has handed in the memo of appeal, which indicates that on 30.4.2018 copy of the appeal memo was indeed served on the office

of the Administrator (Mamlatdar).

6. Mr. Wagle is quite right in his submission based upon the procedure. However, since the procedure is ultimately, only for the purposes of

supplementing the cause of justice, in this matter, rather than insisting upon the formal convening of meeting of the body of members (mazania) on the

basis of the order of Administrator (Mamlatdar), we put it to Mr. Wagle as to whether the body of members can, in the peculiar facts of the case,

consider the appeals instituted by the petitioners and dispose of them in accordance with law.

7. Mr. Wagle has very graciously accepted, the suggestion which came from the Court and has stated that the appeals instituted by the petitioners, will

be disposed of, in accordance with law within a period of 60 days from today by the body of members (mazania), who will meet to decide these

appeals. He, however, requests that all the contentions of the parties be kept open to be decided by the body of members (mazania). This request, in

the circumstances of the present case, is quite reasonable.

8. Mr. Wagle also states that the principles of natural justice will be followed and accordingly, if the petitioners desire a personal hearing, the same will

be offered.

9. Mr. Ryan Menezes, learned counsel for the petitioners, assures this Court that the petitioners will attend personal hearing, if they so desire on the

appointed date without seeking any adjournment. This is necessary because the appeals are to be heard by the body of members (mazania) and it will

not be very easy for such body to convene time and again. We accept the assurance given by Mr. Ryan Menezes that no adjournment will be applied

for, or in any case, written submissions will be filed on the date of hearing of the appeals in case any of the petitioners, for some unavoidable reason,

cannot remain present.

10. Mr. Wagle, learned counsel for respondent nos.1 and 2 states that the body of members (mazania) will meet on 10th March 2019 at 11.00 a.m. to

decide the appeals. Mr. Menezes takes note of this date on behalf of the petitioners. Accordingly, there will be no necessity for service of any fresh

notices on the petitioners.

11. Accordingly, all these petitions are disposed of, with a direction to the body of the members (mazania) to dispose of the petitioners' appeals in

accordance with law, within a period of 60 days from today. All the contentions of the parties are left open to be decided by the body of members

(mazania).

12. Rule is made partly absolute in the aforesaid terms in each of these petitions.
13. All concerned to act on the basis of an authenticated copy of this order.
14. There shall be no order as to costs.