

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 5760 OF 2015

FENSIBHAI NEMICHAND SHAH
RELIGIOUS CHARITABLE TRUST, AHMEDNAGAR,
THROUGH ITS SECRETARY
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. Rajendra L. Kute.

AGP for Respondents: Mr. S.P.Dound.

...

CORAM : **SUNIL P. DESHMUKH, J.**

DATE : 19th August, 2015.

Per Court:

1 The Petitioner had been initially moved against the purported show cause notice dated 5th May, 2015, issued on 9th May, 2015, calling for explanation in respect of matters referred to thereunder. Thereupon, the Petitioner had applied to the concerned Authority seeking some time on 15th May, 2015. It appears that the Petitioner had also attempted to move before this Court during the vacation against said show cause notice, however, could not secure any circulation and as such, the matter appeared before this Court on 10th Jun, 2015, when the notices came to be issued. After the notices were issued, it so transpired that an order had already been passed by

the Sub-Divisional Officer on 26th May, 2015. The learned counsel for the Petitioner points out that the order had been passed without considering the application of the Petitioner dated 15th May, 2015, seeking time to collect necessary papers and make an approach against the notice before this Court. He, under the circumstances, submits that the petition as such underwent certain amendments which have been referred to in the amended portion. The amended portion shows that although, a cursory reference has been made to 15th May, 2015 application, it does not show application of mind for the reasons for which said application has been moved.

2 The learned AGP tries to justify the order of the Appellate Authority dated 26th May, 2015. However, it appears that the principles of natural justice required to be observed in their true sense and manner were not followed. Having regard to the circumstances, the fact that has not been disputed by the other side about the Petitioner having applied on 15th May, 2015, and further had tried to move the petition before this Court during vacation and an order came to be passed during the course of Summer Vacation by Appellate Authority, before the matter could be laid before this Court in June, 2015, the interest of justice can be met by setting aside the impugned order and directing the authority concerned to give proper opportunity of hearing

to the Petitioner.

3 As such, the order dated 26th May, 2015, stands set aside. The Petitioner to appear before the Authority concerned on 3rd September, 2015. The concerned Authority shall give proper opportunity to the Petitioner of being heard and by following the principles of natural justice, pass an appropriate order.

4 In view of aforesaid order, further directions also lose their efficacy and the direction, if any, can be passed only after the decision is rendered in the proceedings pending before the Sub-Divisional Officer.

5 With these observations, the writ petition stands disposed of.

[SUNIL P. DESHMUKH, J.]

ndm