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

WRIT PETITION NO.7727 OF 2014

Datta Baswantrao Patil,
age: 40 years, Occ:Business,
R/o Yesgi, Tq. Biloli,
District Nanded.

PETITIONER

VERSUS

- 1 The State of Maharashtra
(Through its Secretary,
Revenue and Forests Department),
Mantralaya, Mumbai.
- 2 The Collector, Nanded.
- 3 The Sub Divisional Officer,
Biloli, District Nanded.
- 4 The Tahsildar,
Biloli, District Nanded.
- 5 District Mining Officer,
Nanded.

RESPONDENTS

**WITH
WRIT PETITION NO.7728 OF 2014**

Babatu Devdas s/o Narayanna,
age: 58 years, Occ:Business,
R/o H.No.6-18-24,
Subhash Nagar, Near SFS School,
Nizamabad (Telengana).

PETITIONER

VERSUS

- 1 The State of Maharashtra
(Through its Secretary,
Revenue and Forests Department),
Mantralaya, Mumbai.

(2)

- 2 The Collector, Nanded.
- 3 The Sub Divisional Officer,
Biloli, District Nanded.
- 4 The Tahsildar,
Biloli, District Nanded.
- 5 District Mining Officer,
Nanded.

RESPONDENTS

WITH
WRIT PETITION NO.7729 OF 2014

Gaus s/o Pashamiya Shaikh,
age: 37 years, Occ:Business,
R/o Mandalpur, Taluka Mukhed,
District Nanded.

PETITIONER

VERSUS

- 1 The State of Maharashtra
(Through its Secretary,
Revenue and Forests Department),
Mantralaya, Mumbai.
- 2 The Collector, Nanded.
- 3 The Sub Divisional Officer,
Biloli, District Nanded.
- 4 The Tahsildar,
Biloli, District Nanded.
- 5 District Mining Officer,
Nanded.

RESPONDENTS

WITH
WRIT PETITION NO.7730 OF 2014

Jafar Ullaha Khan s/o Almas Khan,
age: 36 years, Occ:Business,
Resident of Hatai Street,
Nizamabad (Telengana).

PETITIONER

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VERSUS

- 1 The State of Maharashtra
(Through its Secretary,
Revenue and Forests Department),
Mantralaya, Mumbai.
- 2 The Collector, Nanded.
- 3 The Sub Divisional Officer,
Biloli, District Nanded.
- 4 The Tahsildar,
Biloli, District Nanded.
- 5 District Mining Officer,
Nanded.

RESPONDENTS

Mr.N.E.Deshmukh, Advocate for the petitioners
Mr.K.D.Munde, A.G.P. for Respondents.

CORAM : N.W. SAMBRE, J.

DATE : 24th November, 2015

ORAL ORDER :

1. The order dated 22nd August, 2014, by the Collector, Nanded, against the petitioners, in the matter of detection of bogus transit passes for removal of mineral (sand) and instructions to lodge F.I.R. is questioned in the instant petitions.

2. Learned Counsel appearing on behalf of the petitioners, while trying to assail the order impugned, would urge that the Collector, before satisfying himself, as regards the alleged commission of the offence by the present petitioners, should have granted opportunity of hearing to them. He

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would then urge that the opportunity of hearing is required to be given in view of the fact that the petitioners are the private land holders and the inquiry that is mentioned in the order impugned, which is formed to be basis for reaching to a conclusion of preparation of bogus transit passes, is in their absence.

3. The above referred contentions are denied by learned Asstt. Govt. Pleader, who submits that the Collector, upon the preliminary inquiry, having noticed that few of the transit passes, though were genuine, yet forty passes were reported to be bogus.

4. According to the learned Asstt. Govt. Pleader, the Investigating Officer shall conduct an inquiry and it will be open for the present petitioners to put forth their case during the recording of their statements under Section 162 of the Code of Criminal Procedure.

5. Having considered the submissions made by the learned Counsel appearing on behalf of the petitioners, it is required to be noted here that before reaching to a conclusion ordering registration of F.I.R. against the petitioners, the Collector was alive of the fact about the communication issued by the Assistant Director of Mines and Geology, Vigilance Squad, as regards forty forged transit passes.

6. In my opinion, the material, that was available before the Collector for his satisfaction, appears to have been formed to be basis for passing

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an order of lodging First Information Report against the present petitioners.

7. In case if an offence is registered against the petitioners, It will be open for them to submit whatever evidence available with them as regards their innocence, before the Investigating Officer, who is required to conduct the investigation in accordance with the provisions of the Code of Criminal Procedure.

8. In view thereof, the submission that the petitioners should have been heard is hardly of any consequence. There is no basis in law to accept such submission.

9. In the light of above, these writ petitions, being devoid of merit, stand rejected with no order as to costs.

(N.W. SAMBRE, J.)

amj