

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO.530 OF 2014

(Sheikh Gaffar Sheikh Sattar vs. The State of Maharashtra and others)

Office Notes, Office Memoranda of
Coram, appearances, Court's orders Court's or Judge's orders
or directions and Registrar's orders.

Shri C.S. Kaptan, Senior Advocate with
Shri M.I. Dhatriak, Advocate for petitioner.
Shri S.M. Ukey, Additional Government Pleader for
respondents.

CORAM : B.P. DHARMADHIKARI AND
P.N. DESHMUKH, JJ.

DATED : SEPTEMBER 14, 2015

Heard Senior Adv. Kaptan with Adv.
Dhatriak for petitioner and Shri Ukey, learned
Additional Government Pleader for respondents.
Perused the order passed by this Court in Writ
Petition No.4878/2012 on 24/4/2013 between
parties.

It is not in dispute that proceedings were
then taken up by respondent no.1 State and

respondent no.5 Hon'ble Minister has passed impugned order.

It is not necessary at this stage to delve deep into the matter. The learned Senior Counsel states that the impugned order proceeds on erroneous premise that opportunity to file written note of arguments was given to the petitioner. He states that copy of the impugned order produced before this Court was never supplied to the petitioner and after getting its knowledge, writ petition has been amended and additional grounds have been raised.

The learned Additional Government Pleader relies upon the statement contained in the impugned order to demonstrate that Counsel for petitioner was given opportunity to file written note of arguments.

The statement made in the impugned order is itself in dispute before this Court and, therefore, impugned order or said statement cannot be an explanation to the contention raised by the petitioner. Though petitioner has specifically raised a ground that the matter was adjourned to 30/1/2014 and he appeared on that date and moved application

pointing out that Writ Petition St. No.1512/2014 was filed by him, these facts are not appropriately dealt with in the reply affidavit on behalf of respondents. We, therefore, find substance in the contention of the petitioner that he was not given reasonable opportunity.

Effort is made by learned Additional Government Pleader to urge that as matter went upto Hon'ble Apex Court and acquisition has been upheld, the scope of hearing or consideration before respondent no.5 was very limited.

We are not inclined to go into said aspect at this stage. Respondent no.5 found it necessary to extend opportunity of hearing to the petitioner and accordingly impugned order records that petitioner was given it. Factually the statement is found incorrect. It is, therefore, obvious that respondent no.5 could not have passed order without giving reasonable opportunity to the petitioner as he found himself unable to decide matter without such opportunity. We, therefore, quash and set aside the impugned order. The matter is restored back to file of respondent no.5. The petitioner to appear before

respondent no.5 on 30/9/2015 and to abide by further instructions in the matter. The petitioner shall not seek any adjournment and on that date, carry his written note of arguments with him and file it or then argue the matter personally. With direction to respondent no.5 to decide the matter afresh within further period of four weeks, we dispose of the petition. Till respondent no.5 passes fresh order, the parties shall maintain status quo as on today. No order as to costs.

JUDGE

JUDGE

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