

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

WRIT PETITION NO.3244 OF 2014

[Shri Vithal s/o Dhondba Kove .vs. The State of Maharashtra and others]

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

Court's or Judge's orders

 Shri P.R. Puri, counsel for the petitioner,
 Shri N.R. Patil, AGP for the respondents.

CORAM : SMT. VASANTI A. NAIK AND
PRASANNA B. VARALE, JJ.

DATED : JUNE 23, 2015.

By this petition, the petitioner challenges the action on the part of the respondents–authorities in incorporating the entry 'Adiwasi Land' in the 7/12 extract in respect of the land of the petitioner, in pursuance of the Government Circular dated 30.11.1992.

According to the petitioner, the respondents could not have categorized the land of the petitioner as 'Adiwasi Land' and made the entry in that respect in the 7/12 extract without serving a notice on the petitioner in respect of the proposed change. It is stated that the impugned entry has been made in the 7/12 extract of the land of the petitioner without issuance of notice and without granting any opportunity to the petitioner.

Shri Patil, the learned Assistant Government Pleader appearing on behalf of the respondents admits that the petitioner was not served with the notice before categorizing the land of the petitioner as 'Adiwasi Land' in the 7/12 extract. It is submitted that the entry was rightly made in pursuance of the Government Circular, dated 30.11.1992.

On hearing the learned counsel for the parties and on a perusal of the provisions of the Maharashtra Land Revenue Code, it appears that it was necessary for the respondents to serve the notice on

the petitioner before making any changes in the 7/12 extract in respect of the land of the petitioner. The entry in the 7/12 extract could not have been changed without any notice to the petitioner. In the instant case, no opportunity was granted to the petitioner before categorizing the land of the petitioner as 'Adiwasi Land' to the detriment of the petitioner. Since the principles of natural justice have been violated in this case, we have entertained the writ petition despite the existence of an alternate remedy under the provisions of the Maharashtra Land Revenue Code.

Hence, for the reasons aforesaid, the writ petition is allowed. The respondents are directed to delete the entry "Adiwasi Land" from the 7/12 extract in respect of the land of the petitioner. The respondents i.e. the respondent no.4 may take a decision in respect of the inclusion of the entry "Adiwasi Land" in the 7/12 extract after hearing the petitioner. The petitioner undertakes to appear before the Tahsildar on 1.7.2015, so that issuance of notice to the petitioner could be dispensed with.

Order accordingly. No costs.

JUDGE

JUDGE