

THE HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.41726 OF 2015

ORDER :

Heard.

Impugned order of seizure of petitioner's bore-well, dated 05.03.2015, passed by the 4th respondent is questioned in this writ petition on various grounds including that the petitioner having in fact, obtained permission from the competent authority under WALTA Act on 10.06.2014. However, the same was not brought to the notice of the Tahsildar and on the contrary, the petitioner is appears to have filed an explanation admitting that he has not been aware of the WALTA Act and dug the bore-well.

The issue was already examined by this Court in W.P.No.29316 of 2014 at the stage of notice and the said writ petition was disposed of on 14.11.2014 directing the Tahsildar to take appropriate action in accordance with law within three months. Thereafter, the present order said to have been passed. If really, the petitioner holds permission, it is not understandable as to why it was not brought to the notice of the 4th respondent in response to the notice issued to the petitioner. However, such factual issue needs to be addressed by the petitioner by an appropriate proceedings in an appeal provided under the WALTA Act against the impugned order. Since the impugned order was passed on 05.03.2015, if there is a delay in representation of the appeal, the petitioner can as well file appropriate appeal seeking condonation by explaining reasons and sufficient cause why the appeal could not be filed earlier and the appellate authority is empowered to examine all the facts and circumstances and also the fact that the petitioner has really obtained any permission to dig the bore-well and take appropriate decision in the matter.

Therefore, with liberty to the petitioner to avail remedy so available under the Act, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

23.12.2015
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DATE: 23.12.2015

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