

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.3753 OF 2014**Bhagwan S/o Raghunath Chemate Vs. The State of Maharashtra
and others.**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.Y.S.Choudhari, advocate for the Petitioner.

Mr.S.P.Sonpawale,A.G.P for the State.

Mr.A.N.Gaddime, advocate for Respondent Nos.2 to 6.

**CORAM : S.V.GANGAPURWALA AND
K.K.SONAWANE, JJ.****Date : 06.04.2016.****PER COURT :**

1. Heard.

2. The petitioner assails the order passed by the Chief Conservator of Forest in an appeal filed by the present petitioner.

3. Mr.Choudhari, learned counsel submits that the authority has decided the appeal on the ground that petitioner has not filed the application within three (3) weeks from the date of the order passed in Writ Petition No.4520/2005 and is not the member of Maharashtra Timber Mahasangh, as such the judgment in W.P.No.4520/2005 can not be made applicable to the petitioner. According to the learned counsel, the said approach of the authority is erroneous. In fact, the factual aspect discussed by the authority is

in favour of the petitioner.

4. Mr.Gaddime, learned counsel for Respondent Nos.2 to 6 submits that as the license of the petitioner is issued after 16.7.1981, the case of the petitioner can not be considered.

5. We have considered the submissions. We have also perused the order passed by the authority. The grounds on which the decision is given is impermissible. The judgment in W.P.No.4520/2005 lays down the proposition and considers various contingencies which is required to be considered by the authority. Only because the petitioner is not party in the said Writ Petition would not make any difference. The proposition of law laid down will have to be considered. So also the fact that the petitioner is not a Member of the Maharashtra Timber Mahasangh would not also make any difference. The authority would require to decide the appeal on its own merits considering the factual matrix of the petitioner's case.

6. In light of the above, the impugned order is quashed and set aside. The parties are relegated before the said authority i.e. Respondent No.2. The Respondent No.2 after hearing the petitioner and all concerned, decide the said appeal afresh on its own merits in accordance with law expeditiously.

7. The Writ Petition is disposed of. No costs.

(K . K . SONAWANE , J .)

(S . V . GANGAPURWALA , J .)

Dt.06.04.2016.
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