

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

WRIT PETITION NO. 7512 OF 2016

Bharat N. Deshmukh Suppliers
Through its Proprietor B. N. Deshmukh .. Petitioner

Versus

The State of Maharashtra and another .. Respondents

Shri U. R. Awate, Advocate h/f Talekar and Associates, Advocate
for the Petitioner.

Ms. Rashmi P. Gaur, AG.P. for Respondent Nos. 1 and 2.

**CORAM : S. V. GANGAPURWALA AND
K. L. WADANE, JJ.**

DATE : 19TH DECEMBER, 2016.

PER COURT :

. Under order dated 29.11.2016, we had asked the respondents to file the affidavit by 19.12.2016, failing which the respondent No. 2 shall personally remain present in the Court.

2. Today neither the affidavit is filed, nor the respondent No. 2 is present in the Court. Instead it is said that, Mr. Deepak Patil, Tahsildar Pachora is deputed to represent the respondent No. 2. We do not approve such approach from the respondent No. 2. No explanation is forthcoming as to why the respondent No. 2 could not remain present and the affidavit not being filed.

3. We have considered the impugned order dated 28.03.2016 thereby forfeiting the security deposit of the petitioner and the bank guarantee.

4. According to the petitioner the said order has been passed without notice to the petitioner and without hearing the petitioner and solely relying upon the report of the Sub Divisional Officer. The report of the Sub Divisional Officer is also not served upon the petitioner.

5. The learned A. G. P. submits that, the report of the Sub Divisional Officer has been considered by the Collector, while passing the impugned order. No illegality has been committed while passing the impugned order.

6. We have considered the submissions. It does not appear that the copy of the report of Sub-Divisional Officer, on the basis of which notice was issued to the petitioner, was supplied to the petitioner, which was the basis for passing the impugned order. It appears that only notice was issued to the petitioner. The order passed in such manner cannot stand the test of principles of natural justice.

7. Considering the above, the impugned order dated 28.03.2016 passed by the Collector, Jalgaon is quashed and set

aside. Respondent– authority shall supply the copy of report of Sub-Divisional Officer to the petitioner. Upon receipt of the same, petitioner shall file his say and thereafter respondent – authority shall consider the same and after hearing the petitioner pass appropriate order afresh. It will be open for the petitioner to raise all possible defence as would be available. The writ petition accordingly stands disposed of. No costs.

[K. L. WADANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/Dec. 16