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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 13701 OF 2016**

Shri Maruti Kondiba Gavali

... Petitioner

Versus

The Commissioner, Navi Mumbai Municipal
Corporation and Ors.

... Respondents

Mr. S.B. Deshmukh for the petitioner.

Mr. S.V. Marne for R. No. 1.

**CORAM : SHANTANU KEMKAR &
PRAKASH D. NAIK, JJ.
DATED : DECEMBER 14, 2016.****P.C.**

Heard parties through their counsel.

2. Feeling aggrieved by the order dated 3.12.2016, Exhibit. N issued by respondent no.1 Commissioner of Navi Mumbai Municipal Corporation whereby the petitioner has been sent back to the primary school, the petitioner has filed this petition. The grievance of the petitioner is that before passing the impugned order, no show cause notice for the proposed action has been issued and the impugned order has been passed.

3. On the other hand, learned counsel for the respondents has supported the impugned order by placing on record the notice dated 15.11.2016 issued to the petitioner and the reply filed by the petitioner to the said notice. According to him the notice dated 15.11.2016 is the show cause notice issued in regard to the proposed action and thereafter the impugned order has been passed.

4. Having considered the submissions advanced by the learned counsel for the parties and having gone through the impugned order, we find that in the impugned order there is no mention of the issuance of the show cause notice to the petitioner as also there is no mention of the stand taken by the petitioner in the reply to the same. In the circumstances, the impugned order cannot be sustained. Further, it is also highly disputed by the petitioner that the said notice dated 15.11.2016 in fact is a show cause notice in regard to the action which has been taken. According to the, petitioner the said notice is regarding the seniority list. Be that as it may, since we find that in the impugned order there is no reference to the show cause notice and its reply, in the circumstances, we have no option but to set aside the impugned order.

5. As a result, we set aside the impugned order. However, we grant liberty to the respondents to issue fresh show cause notice to the petitioner in regard to the proposed action. In case such notice is issued to the petitioner, the petitioner shall file reply to the same within two weeks from the date of its receipt. After receipt of the reply, the respondent shall pass a reasoned order on it after giving due opportunity of hearing to the petitioner.

6. With the aforesaid, directions, petition is disposed of.

(PRAKASH D. NAIK, J.)

(SHANTANU KEMKAR, J.)