

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

WRIT PETITION NO. 3259 OF 2016

Nilesh Babaraoji Bhusari

-VS-

The Block Development Officer, Panchayat Samiti, Tiwasa and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Vinay Dahat, counsel for the petitioner.
Mr. S.D.Chopde, counsel for the respondent Nos.1 to 4.

CORAM : SMT. VASANTI A. NAIK &
MRS. SWAPNA JOSHI, JJ.

DATE : 19.07.2016.

By this writ petition, the petitioner challenges the order of the respondent No.1-Block Development Officer, Panchayat Samiti, Tiwasa, dated 03/06/2016 asking the petitioner to pay a sum of Rs.1,18,680/- to the respondents, as the said amount was wrongfully paid by the petitioner to the Contractor, in excess.

Inter alia, the impugned order is challenged by the petitioner on the ground that the said order is passed by the respondent-Block Development Officer without granting an opportunity to the Petitioner. It is stated that the petitioner was not even served with a show cause notice before the impugned order was passed.

Shri S.D.Chopde, the learned counsel for the respondents, has tendered an affidavit-in-reply, filed on behalf of the respondent Nos.1 to 3, in the Court today. The same is accepted on record. It is stated in the reply that the petitioner was granted an opportunity, as the notices of hearing were issued by the respondents in the month of January and February, 2016.

On hearing the learned counsel for the parties, we find that the respondents have not afforded any opportunity, whatsoever, to the petitioner to explain whether he had paid excess amount to the

Contractor, while he was working as a Secretary at Nimbhora. The notices that are said to have been issued by the respondents were not issued or served on the petitioner, but were issued to the President/Secretary of the Committee at Nimbhora. When the said notices were issued, admittedly the petitioner was not working at Nimbhora and was posted at Chinusta. There is nothing on record to show that the respondents had actually served a show cause notice on the petitioner before passing the impugned order, asking the petitioner to repay a sum of Rs.1,18,860/-. Since the impugned order is passed in violation of the principles of natural justice, the same cannot be sustained.

Hence, for the reasons aforesaid, the writ petition is allowed. The impugned order is quashed and set aside. The respondents are free to take appropriate action against the petitioner, in accordance with law. Order accordingly. No costs.

JUDGE

JUDGE

C E R T I F I C A T E

I certify that this Order uploaded is a true and correct copy of original signed Order.

Uploaded by : G.S.Khunte,
P.A.to Hon'ble Judge

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