

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

WRIT PETITION NO.6128/2016

Ku. Karuna d/o Premdas Belekar

...Versus...

The Additional Tribal Commissioner, Nagpur Division, Adivasi Vikas Bhavan,
Giripeth, Nagpur – 440010 and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.P. Kshirsagar, Advocate for petitioner
Shri A.A. Madiwale, AGP for respondent no.1

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

DATE : 14.12.2016

Heard.

By this writ petition, the petitioner challenges the order of the Additional Tribal commissioner, dated 16.9.2016, modifying the order, dated 20.8.2016.

Shri Kshirsagar, the learned Counsel for the petitioner submitted that the impugned order is liable to be set aside as the Additional Tribal Commissioner did not grant any opportunity to the petitioner before modifying the order, dated 20.8.2016. It is stated that the Additional Tribal Commissioner did not have jurisdiction to modify her order.

The learned Additional Government Pleader appearing for the respondent no.1 states that since there was an apparent mistake in the order, dated 20.8.2016, by the impugned

order, the mistake is corrected and one sentence that was mistakenly inserted in the order, dated 20.8.2016, was sought to be deleted. It is, however, fairly stated that before passing the impugned order, the petitioner was not afforded an opportunity of hearing. It is stated that if this Court so directs, the Additional Tribal Commissioner would hear the petitioner and then pass an appropriate order.

We do not find any merit in the submission made on behalf of the petitioner that the Additional Tribal Commissioner could not have modified her order. It is apparent from a reading of both the orders that by deleting one sentence in the first order, the Additional Tribal Commissioner was trying to rectify the apparent mistake in the order. However, since the petitioner was not heard before the impugned order was passed, it would be necessary to set aside the order on the said ground and remand the matter to the Additional Tribal Commissioner to pass an appropriate order after hearing the petitioner and the other concerned parties.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The Additional Tribal Commissioner may pass an appropriate order, as early as possible, after hearing the petitioner and the concerned parties.

Order accordingly. No costs.

JUDGE

JUDGE