

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.5317 OF 2014

Mahendra R.Patrawalla .. Petitioner
Vs.
Lonawala Nagarparishad & Ors. .. Respondents

Ms.Apeksha Vora for the petitioner.

Mr.A.A.Garge for the respondent nos.1 and 2.

Mr.S.D. Rayrikar, AGP for the respondent nos.3 to 5.

CORAM : R.D. DHANUKA, J.

DATE : 12th March 2018

P.C.:

. It is the grievance of the petitioner that the impugned order dated 13th March 2014 annexed at page 56 of the petition has not been passed after hearing of the petitioner though hearing was proposed to be given on 5th March 2018 by the Additional Commissioner, Pune.

2. Mr.Garge, learned counsel for the respondent nos.1 and 2 is not able to point out to this Court whether the petitioner was heard or not. A perusal of the impugned order of the learned Additional Commissioner does not indicate that the petitioner was heard on 5th March 2018 by the Additional Commissioner, Pune on merit. Mr.Garge, learned counsel for the respondent nos.1 and 2 states that his clients have no objection if the matter is remanded back to the Additional Commissioner and be given an opportunity of being heard to the petitioner.

3. The impugned order dated 13th March 2014 is accordingly set aside. The matter is remanded back to the Additional Commissioner

for rendering an opportunity of being heard to the petitioner. The petitioner shall appear before the learned Additional Commissioner on 22nd March 2018 at 3.00 p.m. The learned Additional Commissioner shall pass a fresh order after hearing the petitioner and without being influenced by the observations made and conclusion drawn in the impugned order dated 13th March 2014 within four months from the date of first hearing. Contentions of both the parties are kept open. It is made clear that this Court has not expressed any views on merits of the order passed by the learned Additional Commissioner but has set aside the said order only on the ground that the petitioner was not heard by the learned Additional Commissioner.

4. Writ petition is allowed in aforesaid terms. No order as to costs. Parties to act on the authenticated copy of this order.

R.D. DHANUKA, J.