

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

WRIT PETITION NO.6854 OF 2012

Phaltan Traders Nagari Sahakari
Patsanstha Mydt., Phaltan, Pune .. Petitioner
Vs.
Sharad Govind Pendharkar & Ors. .. Respondents

Mr.Amit B. Borkar for the petitioner.
Mr.S.S. Patwardhan for the respondent nos.1 to 4.
Mr.S. H. Kankal, AGP for the respondent no.5.

**CORAM : R.D. DHANUKA, J.
DATE : 22nd January 2018**

P.C.:

. Mr.Borkar, learned counsel appearing for the petitioner, on instructions, states that his client would withdraw restoration application No.482 of 2013 filed before the learned Minister, Mumbai within two weeks from today. Statement is accepted.

2. A perusal of the record indicates that the impugned order passed by the learned Minister on 16th May 2012 allowing the Appeal No.738 of 2011 filed by the respondent nos.1 to 4 was passed ex parte without rendering an opportunity of being heard to the petitioner. Mr.Patwardhan, learned counsel appearing for the respondent nos.1 to 4 does not dispute that the impugned order was passed by the learned Minister ex parte.

3. In my view, since the said order is passed ex parte without rendering an opportunity of being heard to the petitioner, the same deserves to be set aside and the proceedings are required to be heard afresh after giving an opportunity of being heard to the petitioner.

4. I therefore pass the following order:-

- (i) The impugned order dated 16th May 2012 passed by the learned Minister is set aside.
- (ii) Appeal No.738 of 2011 filed by the respondent nos.1 to 4 is restored to file before the learned Minister (Co-operation), respondent no.5 herein.
- (iii) The petitioner undertakes to appear before the learned Minister (Co-operation) on the date fixed.
- (iv) Learned Minister (Co-operation) shall decide the matter afresh and in accordance with law without being influenced by the observations made and conclusion drawn in the impugned order dated 16th May 2012.
- (v) Learned Minister (Co-operation) shall decide the matter within three months from the date of communication of this order.
- (vi) Petitioner as well as the respondent nos.1 to 4 shall appear before the learned Minister on 15th February 2018 at 3.00 p.m. If the date is not convenient to the learned Minister (Co-operation), the parties shall be communicated by the learned Minister in advance.
- (vii) Writ petition is disposed of in aforesaid terms. No order as to costs.
- (viii) The parties as well as the learned Minister (Co-operation) to act on the authenticated copy of this order.

R.D. DHANUKA, J.