

(1)

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

**WRIT PETITION No. 4549/2018.**

Madhukar Ramkrishna Sawarbandhe

**-VERSUS-**

State of Maharashtra and others.

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

Court's or Judge's orders.

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**CORAM : B.P. DHARMADHIKARI**  
**AND Z. A. HAQ, JJ.**

**DATE : AUGUST 03, 2018.**

Heard Shri T.H. Bewali, learned Counsel  
for the petitioner and Ms. M.A. Barabde, learned A.G.P.  
for respondents.

2. We find substance in the contentions of  
Shri Bewali, learned counsel for the petitioner that  
the order dated 19.03.2018, is unsustainable. He  
contends that in the backdrop of said order,  
consideration of his appeal by the succeeding Officer  
and its rejection on 18.07.2018, is also unsustainable.

## (2)

3. He has pressed into service various grounds to assail the orders.

4. Ms. Barabde, learned A.G.P. appearing on behalf of respondents points out that notice for hearing was issued by the office of the earlier Sub Divisional Officer and as the petitioner was not present, order was passed on 19.03.2018. Thereafter, petitioner preferred an appeal against the order of the Tahsildar, and that appeal has been considered by the succeeding Sub Divisional Officer on 18.07.2018. She points out that the order passed on 19.03.2018, is on a report sent by the Tahsildar for action under Section 48[8] of the Maharashtra Land Revenue Code, 1966. While petitioner in his appeal presented thereafter, has questioned the order of the Tahsildar dated 23.01.2018. According to her, therefore, there is difference in nature of both the proceedings.

5. We have also looked into the photocopy of the original order sheet maintained by the office of the Sub Divisional Officer.

6. The order dated 19.03.2018, does not

**(3)**

mention that notice of hearing was sent to the petitioner on 27.02.2018; that it was received by petitioner on a particular date, and still he was absent. The order sheet mentions in handwriting after a printed portion, that next date was scheduled on 13.03.2018. The order sheet above is signed by the Sub Divisional Officer on 27.02.2018, and above that signature in photocopy, one can read the words “date of hearing 06.03.2018”.

7. The order sheet thereafter is dated 13.03.2018, which records absence of petitioner and therefore, closure of the matter. Last order sheet is dated 19.03.2018, which records that orders are passed.

8. The order sheet therefore, does not show any report or remark that notice of hearing for dated 13.03.2018 or date 06.03.2018, was sent to the petitioner and it was served upon it before the scheduled date.

9. We in this situation, find the order dated 19.03.2018, unsustainable.

## (4)

10. As the order dated 18.07.2018, does not refer to said order and satisfaction already reached in the matter by the Appellate Authority, that order is also unsustainable. The order is, therefore, quashed and set aside.

11. However, taking over all view of the matter, we direct the petitioner to deposit an amount of Rs. 31,200/- with the office of the Tahsildar, Pauni, within a period of one week. The petitioner shall also simultaneously submit a solvency for the sum of Rs. 2 lakhs and also an undertaking on affidavit to produce the truck if so directed by the Revenue Authorities. After such an amount is deposited, solvency and affidavit are filed, the office of respondent no.2 Tahsildar shall forthwith release the truck without sand to the petitioner.

12. The appeal filed by the petitioner on 02.05.2018, is restored back to the file of the Sub Divisional Officer. Respondent Sub Divisional Officer shall hear the petitioner on that appeal as also on proceedings under Section 48[8], together. We direct

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the petitioner to appear before respondent Sub  
Divisional Officer for said purpose on 27.08.2018.

13. With these directions and keeping all other  
rival contentions open, we partly allow the Writ  
Petition. No costs.

**JUDGE**

**JUDGE**

Rgd