

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CIVIL APPLICATION NO.6313 OF 2019

IN

**WP/8424/2015 WITH CA/11298/2016 IN WP/8424/2015
WITH CA/4423/2019 IN WP/8424/2015 WITH
CA/6106/2019 IN WP/8424/2015**

GIRIDHARI HASANAND MAKHIJA

VERSUS

LAXMINARAYAN CHOTELAL RATHOD AND OTHERS

Mr.Shaikh Ashpak Taher, Advocate for applicant

Mr.S.R.Awad, Advocate h/f. Mr.Anandsing Bayas, Advocate for
petitioner in Writ Petition

Mr.P.S.Patil, AGP for respondent nos.3 to 5

Mr.N.S.Tekale, Advocate for respondent no.15 in Writ
Petition

Mr.S.S.Dande, Advocate for respondent no.13 in Writ
Petition

Mr.S.S.Thombre, Advocate for respondent nos.5, 7 and 9

CORAM : PRASANNA B. VARALE

AND

R.G. AVACHAT, JJ.

DATE : JUNE 06, 2019

PER COURT :-

By way of these applications, the applicants
are before this Court with a basic prayer namely,
direction to the authority to conduct an enquiry in
view of the orders passed by this Court dated
14.03.2019 and 18.03.2019 so also a challenge is raised
to the order dated 22.03.2019.

2. Upon perusal of the order dated 18.03.2019, it reveals that initially, notices were issued to the applicants and being aggrieved by the notices, the applicants had approached this Court on the ground that opportunity of hearing was not granted to them. A statement was made before this Court, on instructions through learned Assistant Government Pleader, that the applicants would be heard objectively and then necessary action would be taken. Accepting the statement, the Division Bench of this Court by order dated 18.03.2019 passed in Civil Application No.3921 of 2019 and other companion applications, to which one of us (Justice R.G.Avachat) was a party, permitted the applicants therein to approach the authority/Officer on a fixed date namely, 20.03.2019. The Division Bench also observed that the applicants shall not expect any notice from the respondent and shall make themselves available for hearing before the authority/Officer. Accordingly, the applicants were heard and an order

has been passed by the Upper Tahsildar, Aurangabad, on 22.03.2019.

3. The sequence of the facts referred to above, clearly shows that initially, as opportunity of hearing was not afforded to the applicants, the Division Bench of this Court thought it fit to grant one more opportunity of hearing to the applicants. It is not in dispute that the applicants were heard by the authority/Officer.

4. Now, it is the submission on behalf of the applicants that proper opportunity of hearing has not been given. Certainly this cannot be an issue prompting the applicants to approach this Court with a prayer of seeking intervention in the Writ Petition. At this stage, learned Counsel for the applicants submit that the applicants may be permitted to withdraw the applications and to challenge the order dated 22.03.2019 independently by availing of appropriate remedies.

5. In view of the submissions of learned Counsel for the applicants in both the applications, the applications are allowed to be withdrawn with liberty, as prayed for. The applications are accordingly disposed of as withdrawn.

6. Learned Counsel prayed for grant of status-quo so as to avail of appropriate remedy to challenge the order.

7. Parties are directed to maintain status-quo only for a period of one week from today. We make it clear that the status-quo would be operative only for a period of one week from today and no further extension of status-quo would be granted on any ground.

[R.G. AVACHAT, J.]

[PRASANNA B. VARALE, J.]

kbp