

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

51 WRIT PETITION NO.7916 OF 2019

RAJKIRAN TUSHAR DESHMUKH

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Mr. Sambhaji S. Tope, Advocate for the Petitioner.

Mr. S. B. Yawalkar, AGP for Respondents-State.

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**CORAM : S. V. GANGAPURWALA &
MANGESH S. PATIL, JJ.**

DATED : 1st JULY, 2019.

PER COURT:-

1. Mr. Tope, learned counsel for the petitioner submits that in spite of the fact that the petitioner has remedy of appeal, the petitioner has approached this Court due to circumstances prevailing. According to the learned counsel the real brother of respondent no.6 is sitting MLA and is exerting pressure. The Revenue Authorities are functioning under the pressure of respondent no.6 and his brother. After the delay of more than three and half years, the application was given by respondent no.6. Without any reason the same was entertained and the revenue entry in favour of the petitioner was set aside. The petitioner filed an Appeal before the Additional Collector. The Additional Collector after recording all the facts remitted the matter to S.D.O. However, the S.D.O.

again has passed the same order without assigning any reason. The petitioner has apprehension that the petitioner would not get justice before the Revenue Authorities.

2. The learned A.G.P. appears for respondent nos.1 to 5 and submits that as petitioner has appellate remedy, the petitioner shall avail the same.

3. While exercising the Appellate remedy, the Appellate Authority would be exercising quasi judicial powers. We cannot presume that the Revenue Authority would function under the pressure of any person. The parties while performing the quasi judicial powers are expected to be independent and certainly would take decision in accordance with provisions. The Appellate Authority will be bound to consider all the factual matrix and legal position, as would be brought to his notice by the parties, so also the circular relied by the parties.

4. Considering the above, we are not inclined to invoke our writ jurisdiction at this stage. The petitioner may file an Appeal against the impugned order before the Appellate Authority, that certainly would be decided in accordance with position of law, factual matrix and circular issued.

5. Writ Petition accordingly disposed of. All contentions of respective parties are kept open. The authorities shall consider the time spent in prosecuting the present petition.

(MANGESH S. PATIL)
JUDGE

(S. V. GANGAPURWALA)
JUDGE

Devendra/July-19