

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

94 WRIT PETITION NO.9246 OF 2018

JOTSNA HANUMANTRAO GADE

..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

...

Dr. Swapnil D. Tawshikar, Advocate for the
Petitioner.

Mr. K. B. Jadhavar, AGP for Respondents-State.

Mr. Vitthal M. Chate, Advocate for Respondent No.3.

...

**CORAM : S. V. GANGAPURWALA &
A. M. DHAVAL, JJ.**

DATED : 28th JANUARY, 2019.

PER COURT:-

1. The appeal filed by the petitioner before
the Commissioner is dismissed.

2. We have heard the learned counsel for the
respective parties.

3. The reliance is placed by the petitioner
on the Roznama dated 30.05.2018 to contend that the
Commissioner had decided to remand the matter.
However, the judgment is delivered on 01.06.2018
dismissing the appeal. There appears to be some
variance. However, we are not inclined to go into
the same. It appears that the appeal has been
decided by the Commissioner without the record.

The Zilla Parishad did not produce any record before the Commissioner nor had filed any say. The Commissioner ought to have gone through the record and thereafter, decide the appeal.

4. In light of the above, the impugned order passed by the Commissioner (Exhibit-F) is quashed and set aside. The parties are relegated before the Commissioner. The parties shall appear before the Commissioner on 18.02.2019. The respondent-Zilla Parishad shall produce the record before the Commissioner. The Commissioner after hearing the petitioner and respondents and going through the record decide the appeal afresh, expeditiously and preferably within a period of three (03) months from the date of appearance of the parties.

5. Writ Petition is disposed of. No costs.

(A. M. DHAVALÉ)
JUDGE

(S. V. GANGAPURWALA)
JUDGE