

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

930 WRIT PETITION NO.11715 OF 2014

SHANKAR VISHWANATH DHONDAPURE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioner : Mr. Mohekar Ganesh V.
AGP for Respondent/State : Mrs. P.V. Diggikar
Advocate for Respondent Nos.7 to 11, 13, 14, 17A to 17E &
18 : Mr. S.G. Rudrawar
Advocate for Respondent Nos.4 to 6 : Mr. P.R. Tandale
Advocate for Respondent Nos.15 & 16 : Mr. H.V. Tungar

...

**CORAM : P.R. BORA, J.
DATED : 25th JULY, 2019.**

PER COURT:-

. The only grievance raised in the present petition is that the Hon'ble Minister has passed the impugned order dated 01.09.2014 without giving any opportunity of hearing to the present petitioner.

2. Shri. Mohekar, the learned counsel appearing for the petitioner submitted that the appeal was previously being heard by the Secretary under the orders of the Hon'ble Minister and the matter was substantially heard by the learned Secretary. The learned counsel submitted that on four dates the hearing took place before the learned Secretary and lastly on 21.07.2014, the next date was given as 03.09.2014. the learned counsel submits that in the

meanwhile, some of the respondents approached to the Hon'ble Minister and abruptly without knowledge of the present petitioner, the said appeal was taken up for hearing again by the Hon'ble Minister and as is revealing from the impugned order, on 21.08.2014, the hearing was taken by the Hon'ble Minister and the impugned order came to be passed on 01.09.2014. The learned counsel submitted that since, there was no notice that the appeal was to be heard by the Hon'ble Minister on 21.08.2014 and even there was no notice to the petitioner in respect of re-transfer of the matter to the Hon'ble Minister, the petitioner could not appear before the Hon'ble Minister. The learned counsel submitted that since, the impugned order has been passed behind the back of the present petitioner and without giving him an opportunity of hearing, the order deserves to be set aside and the matter needs to be remitted to the said authority for deciding it afresh.

3. Shri Tandale, the learned counsel appearing for respondent nos. 4 to 6 and Shri Rudrawar, the learned counsel appearing for respondent nos. 7 to 11, 13, 14, 17A to 17E & 18 sought to contend that the Hon'ble Minister has passed the correct order. Government Authorities have also appeared in the matter and their affidavits are on record. In

none of the affidavits, it is mentioned that the notice was served upon the present petitioner informing him that the appeal is re-transferred to the Hon'ble Minister and the Hon'ble Minister will be hearing the said matter.

4. In the above circumstances, the order cannot be sustained and the matter needs to be remitted back to the Hon'ble Minister. Without going into the merits of the matter, I deem it appropriate to remit the matter back to the Hon'ble Minister to decide it afresh. Hence the following order is passed:

ORDER

I) The order dated 01.09.2014 passed by the Hon'ble Minister is set aside.

II) The matter is remitted to the Hon'ble Minister to decide it afresh by giving due opportunity of hearing to the parties concerned, on its own merit and in accordance with law.

III) The parties to appear before the Hon'ble Minister on 22.08.2019 and shall get abide by further orders, which may be imparted by the Hon'ble Minister for disposal of the appeal.

IV) The writ petition stands disposed of.

V) Till appearance of the parties before the Hon'ble

(4)

Minister, the interim order passed in favour of the petitioner by this Court on 23.12.2014 shall remain in force.

VI) The amount of Rs.30,000/- deposited by the petitioner in this Court be refunded to the petitioner.

(P.R. BORA, J.)

Mujaheed//