

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
147 WRIT PETITION NO.3094 OF 2020**

PUYUSH SANTOSH UBALE AND ANOTHER ..PETITIONERS

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

**WITH
WRIT PETITION NO.3095 OF 2020**

KIRAN S/O VASANTRAO WANKHEDE ..PETITIONER

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS ..RESPONDENTS

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Mr. N. L. Jadhav, Advocate for the Petitioners.
Mrs. M. A. Deshpande, AGP for Respondents-State.
Mr. S. V. Adwant, Advocate for Respondent No.5.

**WITH
CIVIL APPLICATION NO.2320 OF 2020
IN
WRIT PETITION NO.3094 OF 2020**

THE NASHIK MERCHANT CO-OPERATIVE BANK ..APPLICANT

VERSUS

PIYUSH SANTOSH UBALE AND OTHERS ..RESPONDENTS

Mr. S. V. Adwant, Advocate for the Applicant.
Mrs. M. A. Deshpande, AGP for Respondents-State.
Mr. N. L. Jadhav, Advocate for Respondent Nos.1 and 2.

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**CORAM : S. V. GANGAPURWALA &
SHRIKANT D. KULKARNI, JJ.**

DATED : 02nd MARCH, 2020.

PER COURT:-

1. Mr. Jadhav, learned counsel for petitioners submits that fresh notices are issued

by respondents, as such seeks leave to withdraw the writ petitions.

2. Writ Petitions are dismissed as withdrawn.

3. The civil application no.2320/2020 is filed by Nashik Merchant Co-operative Bank in Writ Petition No.3094/2020. Under order dated 21.02.2020 we had called for explanation from the Additional Tahasildar. The Additional Tahasildar communicated under letter dated 17.02.2020 to the Collector that writ petition is pending and as such it would not be possible to take action. The Tahasildar did not even verify whether the Court has granted stay or not. There was no order of stay operating.

4. Pursuant to our order dated 21.02.2020 the Additional Tahasildar has filed affidavit giving explanation. He has tendered his sincere and unconditional apology. According to him he had taken cautious approach and as writ petitions were filed he communicated to the District Magistrate that he is unable to take further action in order to avoid further consequences and sought guidance from the District Magistrate.

5. The Additional Tahasildar is responsible officer. He has to be unconcerned with the parties. He cannot show any interest in the litigation. The parties may give letter to him, however, he is to consider whether any prohibitory orders are passed by the Court. He is bound by the

prohibitory orders passed by the Court and not by the request made by the parties.

6. In the present case, it appears that, the Addition Tahasildar only upon the letter of the party that writ petition is filed did not implement the order of the District Magistrate. We cannot appreciate such an act on the part of the Additional Tahasildar. The same would tantamount to dereliction of his duties.

7. The Additional Tahasildar ought to have considered that the writ petitions were not even registered, no prohibitory order was passed by the Court and as such he was bound to proceed in accordance with law.

8. Considering the remainder of service of the Additional Tahasildar, though we may not approve all his acts of misfeasance, we accept the unconditional apology tendered by him and caution him that if in future such kind of acts of misfeasance or malfeasance are noticed, stern action would be taken against him or for that matter against any erring officer.

9. If fresh cause of action is there, the parties may take appropriate steps in accordance with law.

10. Civil Application is disposed of.

(SHRIKANT D. KULKARNI)
JUDGE

(S. V. GANGAPURWALA)
JUDGE