

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.12709 OF 2019

Ashapura Global Project ... Petitioner
V/s.
The State of Maharashtra and anr. ... Respondents

Mr.S.A.Joshi, Advocate for the Petitioner.
Mrs.V.S.Nimbalkar, AGP for the Respondents.

**CORAM : UJJAL BHUYAN, J.
DATE : JANUARY 13, 2020.**

P.C.:-

1. Heard Mr.S.A.Joshi, learned counsel for the petitioner; and Mrs.V.S.Nimbalkar, learned AGP for the respondents.
2. In this petition filed under Article 227 of the Constitution of India, petitioner has assailed the legality and correctness of order dated 27th November, 2019 passed by Tahasildar (Reti Gat), Thane i.e. respondent No. 2.
3. By the said order dated 27th November, 2019, respondent No.2 has passed a revised order directing the petitioner to deposit an amount of Rs.2,30,68,500/- . It

was alleged that petitioner had transported the stones while extracting earth and used the minor mineral (stones) for construction.

4. Learned counsel for the petitioner submits that the impugned order was passed without giving adequate opportunity of hearing to the petitioner. That apart, the audit report as well as order passed by the office of respondent No. 2 which were relied upon, were not furnished to the petitioner.

5. On the other hand, learned AGP submits that against the impugned order dated 27th November, 2019 petitioner has a remedy of filing revision petition before the Sub-Divisional Officer which requires pre-deposit of 50% of the penalty.

6. Upon hearing learned counsel for the parties, court is of the view that the impugned order entails adverse civil consequence upon the petitioner. If that be the position, then petitioner was required to be afforded an adequate opportunity of hearing before imposition of penalty. Impugned order does not disclose that petitioner was afforded such an opportunity of hearing. That apart,

it is trite that notwithstanding availability of alternative remedy if the court is satisfied that there has been violation of the principles of natural justice, the constitutional remedy of writ jurisdiction would be available to the person aggrieved.

7. On due consideration, impugned order dated 27th November, 2019 cannot be sustained and is hereby set aside. Matter is remanded back to respondent No.2 who shall rehear the matter and pass appropriate order after giving due opportunity of hearing to the petitioner.

8. Let the petitioner appear before respondent No.2 on 27th January, 2020 at 11.00 a.m. alongwith an authenticated copy of this order.

9. All the copies of documents relied upon by respondent No.2 shall be furnished to the petitioner and the petitioner may be given an opportunity to submit its say. Thereafter fresh order may be passed in accordance with law within a period of two months from the date of appearance.

10. Writ Petition is disposed of.

(UJJAL BHUYAN, J.)