

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Writ Petition No. 1965 of 2020

Navan @ Navin Ashok Baddamwar & Another Vs. State of Maharashtra
through Police Station Officer Patan Tah. Zari Jamni District Yavatmal &
Another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. M.P Kariya, Advocate for the petitioners
Ms. T.H. Khan, AGP for the respondents.

CORAM : MANISH PITALE, J.

DATED : DECEMBER 11, 2020

By this Petition, the petitioners have challenged orders dated 02/01/2020 and 30/01/2020, passed by the respondent No.2 – Tahsildar. It is the case of the petitioners that both orders suffer from flagrant violation of principles of natural justice in as much as they are adverse to their interest and they were never granted hearings before passing the said orders.

2. The learned counsel appearing for the petitioners submitted that the vehicle belonging to them was seized by the police for allegedly illegally carrying sand to the extent of 1 brass. The said vehicle was released on *supratnama* by an order of the Magistrate, but, the respondent No.2 – Tahsildar

initiated action against the petitioners behind their back. It is pointed out that impugned order dated 02/01/2020, was passed without notice to the petitioners, wherein penalty to the extent of Rs.5,77,000/- was imposed on the petitioners under Section 48(7) and (8) of the Maharashtra Land Revenue Code, 1966. It was also submitted that subsequent impugned order dated 30/01/2020, was passed by the respondent No.2 – Tahsildar informing the Police Sub-Inspector of the concerned Police Station to seize the aforesaid vehicle in view of the impugned order passed on 02/01/2020. Even this order was passed without notice to the petitioners.

3. This Court issued notice in the Writ Petition and the learned AGP had entered appearance on behalf of the respondents.

4. A bare perusal of both the impugned orders dated 02/01/2020 and 30/01/2020, shows that the petitioners were never put to notice before passing the said orders. The impugned order dated 02/01/2020, shows that a copy of the same was marked to the petitioner No.1, but, that was obviously after the order had been passed. The impugned order dated 30/01/2020, does not even show that a copy of the same was marked to either of the petitioners.

5. It is difficult to understand how the respondent No.2 – Tahsildar proceeded to pass the impugned orders without even the petitioners put to

notice. If any action under the provisions of the Maharashtra Land Revenue Code, 1966, for alleged illegal transportation of sand was contemplated against the petitioners, notice ought to have been issued before passing any order in such proceedings.

6. Therefore, on this short ground, the impugned orders are found to unsustainable and they are set aside.

7. Accordingly, the Writ Petition is allowed in terms of prayer clauses (a) and (b). Consequently, the vehicle belonging to the petitioners shall be released forthwith.

JUDGE