

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 WRIT PETITION NO.6885 OF 2018

Sayyad Yunus Pachulal Patel
Age: 62 years, Occu: Agriculture,
R/o: Patel Nagar, Kanheri Chowk,
Ring Road, Latur, Dist – Latur

... Petitioner

VERSUS

1. State of Maharashtra through
Secretary Revenue Department
Mantralaya, Mumbai.
2. The Divisional Commissioner
Aurangabad, Dist. Aurangabad.
3. The Additional Collector, Latur,
District: Latur.
4. The Sub-Divisional Officer,
Ausa Renapur, Dist: Latur.
5. Dhondiram s/o Pandurang Gomare
Age: Major, Occu: Agri.
R/o: Umbadga (Kh.), Tq. Ausa,
District: Latur.
6. Dhananjay s/o Pandurang Gomre
Age: Major, Occu: Agri.,
R/o: As above.

... Respondents

...
Advocate for Petitioner : Dr. Tawshikar Swapnil D.
AGP for Respondents/State: Mrs. V. S. Choudhari
Advocate for Respondent No.6: Mr. A. N. Irpatgire
...

CORAM : N. B. SURYAWANSHI, J.

DATE : 29th November, 2021

ORAL JUDGMENT :

. **RULE.** Rule made returnable forthwith. Heard finally with consent of the parties.

2. This petition takes exception to the order dated 06-04-2018 passed by the Additional Divisional Commissioner, Aurangabad in Proceeding No.2013/ROR/REV/583, thereby setting aside the order dated 31-08-2016, passed by the Additional Collector, Latur in Proceeding No.2016/ROR/A-23.

3. In fact, the order challenged before the Additional Commissioner in Appeal No.583/2013 at the instance of the Respondents was the order dated 24-02-2012 passed by the Sub-Divisional Officer, Latur and the order dated 05-02-2013 passed by the Additional Collector, Latur in Proceeding No.2012/ROR/A-28, thus non application of mind on the part of the Additional Commissioner is writ large on the face of record as he has quashed and set aside the order, which was not impugned before him. The impugned order is, therefore, vitiated and the same is liable to be quashed and set aside. Therefore, I pass the following order:

ORDER

- (I) Writ Petition is allowed in terms of prayer clause 'B'.
 - (II) The impugned order dated 06-04-2018 passed by Respondent No.2 in File No.2013/ROR/REV/583 is hereby quashed and set aside.
 - (III) The matter is remanded back to the Respondent No.2 for fresh consideration on merits after hearing the concerned parties.
 - (IV) Parties to appear before the Additional Commissioner, Latur on 15-12-2021. Notice is, therefore, waived by the parties.
 - (V) Respondent No.2 is expected to decide the matter within a period of eight weeks from the date of appearance of the party.
4. Rule is made absolute in the above terms with no order as to costs.

(N. B. SURYAWANSHI, J.)

Sameer