

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

9 WRIT PETITION NO.9567 OF 2021

**AJIT SANJAY HAJARE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocates for Petitioner: Mr. Deshmukh Mohit R.
and Mr. Kamble Tathagat V
AGP for Respondents No. 1 to 3: Mr. S. G. Karlekar
Advocate for Respondents No.4&5:
Mr. P. D. Suryawanshi

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 06th SEPTEMBER, 2021

PER COURT:

1. Mr. Deshmukh, learned Advocate for the petitioner submits that show cause notice was issued to the petitioner in respect of 2 works on 10.02.2021. The petitioner filed Reply on 16.08.2021. The respondent on 05.08.2021 passed final order seeking recovery from the petitioner in respect of 4 works. The works which are narrated in the final order dated 05.08.2021 was not part of show cause notice dated 10.02.2021, they were completely different. No show cause

notice was issued to the petitioner in respect of final order dated 05.08.2021.

2. Mr. Suryawanshi, learned Advocate for the Zilla Parishad / respondents no. 4 and 5 submits that show cause notice was issued to the petitioner on 10.02.2021. The petitioner has filed Reply. Pursuant to the Reply filed by the petitioner the respondent would take final decision pursuant to the show cause notice dated 10.02.2021. According to the learned Advocate, the order dated 05.08.2021 is not in furtherance of the show cause notice dated 10.02.2021. No show cause notice was issued to the petitioner before the final order dated 05.08.2021.

3. We have considered the submissions canvassed by the learned Advocates for the parties.

4. It appears that after receiving the show cause notice dated 10.02.2021 the petitioner filed Reply on 16.08.2021 denying his liability. As submitted by the learned Advocate for respondents

no. 4 and 5 no final order is passed pursuant to the show cause notice dated 10.02.2021 (*Page No. 143*). In view of that, it will be open for respondents no. 4 and 5 to consider the Reply filed by the petitioner to the show cause notice dated 10.02.2021 and then take final decision thereupon.

5. As far as the final order dated 05.08.2021 is concerned, it is admitted by respondents no. 4 and 5 that no show cause notice was issued to the petitioner prior to the final order dated 05.08.2021 (*Page No. 146*). In light of that, the final order can not be sustained.

6. The petitioner may construe the order dated 05.08.2021 as a show cause notice to him. The petitioner may file Reply to the same preferably within fifteen (15) days. Respondents no. 4 and 5 shall construe the order dated 05.08.2021 (*Page No. 146*) as a show cause notice to the petitioner. Respondents no. 4 and 5 shall consider the Reply filed by the petitioner on it's own merits and

then take final decision after considering the Reply. The order dated 05.08.2021 will have the status only to the extent as a show cause notice and no liability is fastened on the basis of the same. It is for respondents no. 4 and 5 to consider the request of the petitioner for access to the record.

7. Writ petition accordingly stands disposed of.
No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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