

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

WRIT PETITION NO. 8597 OF 2021

Shree Siddheshwar Sahakari Sakhar Karkhana
Maryadit, Solapur

...Petitioner

vs.

The State of Maharashtra & Ors.

...Respondents

Ms. Shriram Kulkarni with Rupesh Bobade, Shradda Sakpal i/b. Bhushan Walimbe for Petitioner.

Mr. Sharmila Deshmukh for Respondent Nos. 2 to 4.

Mr. R.A. Salunkhe, AGP for State.

CORAM : A.A. SAYED & ABHAY AHUJA, JJ.

DATED : 7 DECEMBER 2021

PC. :

. Learned Counsel for the Petitioner has produced a copy of the order dated 23 November 2021 in Writ Petition No. 7877 of 2021 of the 1st Court. Paragraphs 5 and 6 of the said order read as follows :

“6. The contention of violation of principles of natural justice, *prima facie*, does not appear to be without any substance. The closure order does not record that copy of the complaint of the “VIP” was served on the petitioner. Such order also does not reveal consideration of the pointwise reply submitted by the petitioner. In view thereof, entertainment of the writ petition would not be contrary to any decision of the Supreme Court. Also, bearing in mind the limited prayer of Dr. Sathe, we dispose of this writ petition with a direction upon the respondent no. 3 to take an appropriate decision on the representation dated 23rd September 2021 in accordance with law upon affording an opportunity of hearing to the petitioner’s authorized representative, within a period of

6 (six) weeks from date of receipt of a copy of this order.

7. Prior to taking a decision on the petitioner's representation dated 23rd September 2021, it shall be open to the respondent no.3 to conduct such surprise inspection/visit at the petitioner's unit to ascertain whether the deficiencies pointed out in the order dated 15th September 2021 stand removed or not. Should the petitioner be found to have complied with all the statutory requirements and removed the deficiencies, the closure order may be revoked with such conditions that may be imposed by the respondent no.3. If, upon inspection and hearing the petitioner, the respondent no.3 is of the view that the closure order should be continued, he shall pass a reasoned order and intimate the same to the petitioner. All contentions are left open

2. By the impugned order dated 29 November 2021, the Petitioner has been directed to close its karkhana (sugar factory). It is not in dispute that the facts of the present case are similar to the facts in the aforementioned case. In the present case also, the Petitioner has not been granted a hearing prior to passing of the impugned order dated 29 November 2021 (page 111 of the Petition) pursuant to the Show Cause Notice dated 2 July 2021 (page 98 of the Petition).

3. In the circumstances, we set aside the impugned order dated 29 November 2021 with a direction to the Competent Authority of Respondent No.3 to take an appropriate decision, after considering the Reply of the Petitioner and affording an opportunity of hearing to the Petitioner, within a period of eight weeks from the receipt of the copy of this order.

4. Inasmuch it is pointed out that as the impugned order is *inter alia* based on grounds which are not mentioned in the Show Cause Notice,

it will be open for Respondent No.3 to issue an additional Show Cause Notice. If such additional Show Cause Notice is issued, the Petitioner may reply to the same. In such event, both the Show Cause Notices shall be decided simultaneously.

5. It is expected of the State Expert Appraisal Committee (SEAC)/State Environment Impact Assessment Authority (SEIAA) to take a decision on the proposal of the Petitioner for environment clearance, expeditiously.

6. The Petition to stand disposed of in the aforesaid terms.

7. All contentions of the parties are kept open.

(ABHAY AHUJA, J.)

(A.A. SAYED, J.)