

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

WRIT PETITION NO. 1792 OF 2018

PETITIONER :

Liladhar Sheshrao Borkar
Aged about 56 years, Occ. Labour.
R/o. Old Dhamangao, Near NMukul Talkies,
Tah. Dhamangao Railway, District - Amravati

VERSUS

RESPONDENTS:

1. The Tahsildar, Dhamangao Railway,
Office at Dhamangao Railway, District Amravati.
2. Sub Divisional Officer, Chandur Railway,
Office at Chandur Railway, District Amravati

AND

WRIT PETITION NO. 1821 OF 2018

PETITIONER :

Pradip Haribhau Kale
Aged about 35 years, Occ. Labour.
R/o. Old Dhamangao, Near NMukul Talkies,
Tah. Dhamangao Railway, District - Amravati

VERSUS

RESPONDENTS:

1. The Tahsildar, Dhamangao Railway,
Office at Dhamangao Railway, District Amravati.
2. Sub Divisional Officer, Chandur Railway,
Office at Chandur Railway, District Amravati

Mr. Alok Daga, Advocate for petitioner.
Mr. Damle, AGP for Respondent Nos.1 and 2 in WP No.1792/2018
and Mr. Sagar Ashirgade, AGP for Respondent Nos. 1 and 2 in WP
No.1821/2018

CORAM : A. G.GHAROTE, J.

DATE : 21/08/2021

(Oral Judgment)

Heard Mr. Alok Daga, learned counsel for the petitioners in both petitions and the learned AGP appearing for respondents.

2] Rule. Rule made returnable forthwith. Heard finally by consent of the learned counsel appearing for the parties.

3] The basic contention raised by Mr. Daga, learned counsel for the petitioners, is that while passing the impugned order dated 13.12.2017 and imposing a penalty, in exercise of the power under Section 48(8) of the M.L.R Code, the opportunity of hearing was not afforded. Though learned counsel admits that by the communication dated 04.08.2017 in Writ Petition No. 1821 of 2018, the petitioner was asked to submit his reply, instead of doing so, an application for release of the seized property was filed, in which the grounds raised would constitute a sufficient reply. Learned counsel submits that the grounds raised in the application have not been considered, nor an opportunity of hearing was afforded.

4] The impugned order dated 13.12.2017 does not depict that any submissions made by the petitioner were considered, or for that matter, an opportunity of hearing was granted before imposing the penalty. That being the position, the impugned order cannot be sustained. The same is quashed and set aside.

5] The petitioners in both the petitions are directed to appear before the respondent authority on 27.08.2021, along with their reply, consequent to which the authority shall proceed to hear them on 30.08.2021 and pass an appropriate order in the matter by 03.09.2021. The respondent to act upon the net downloaded copy of this order to be placed before him by the learned counsel for the petitioners. Petitions are accordingly disposed of.

JUDGE