

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

WRIT PETITION NO.12412 OF 2022

**HARI MADHAV BHINGARDIVE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

....

Mr. T. M. Venjane, Advocate for the petitioner

Mr. D. R. Kale, Government Pleader for the respondents

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**CORAM : MANGESH S. PATIL AND
Y. G. KHOBRAGADE, JJ.**

DATE : 09.12.2022

ORAL ORDER :-

Heard.

2. Rule. Rule made returnable forthwith. The learned AGP waives for all the respondents.

3. At the joint request of the parties, the matter is heard finally at the state of admission.

4. The petitioner is challenging the order passed by respondent No.3 - Additional Collector dated 30.08.2022, whereby he has concluded that the petitioner has been guilty of committing breach of the terms and the conditions, subject to

which the writ property was allotted to him under the Maharashtra Land Revenue (Disposal of Government Lands) Rules, 1971.

5. The order no way hints about any opportunity of being heard having been extended to the petitioner by asking him to show cause.

6. We had requested the learned AGP to take instructions. On instructions, he submits that the petitioner was not heard before passing the impugned order.

7. The learned AGP submits that an alternate remedy is available to the petitioner to challenge the impugned order and for this reason alone the petition is not maintainable.

8. We have no hesitation to conclude that the order is nonest in view of the fact that it is in breach of the principles of natural justice. The availability of alternate remedy would not come in the way of the petitioner.

9. It is trite and even this Court had in number of matters issued directions as to the manner in which an authority vested with the quasi judicial powers, has to exercise it by following the principles of natural justice. Even if there are certain grounds for the respondent to doubt about breach of condition. It was imperative for him to have called upon the petitioner to show cause before passing the drastic order of resumption of the land. Giving a complete go-by to such well settled principles, the impugned order has been passed, which is

clearly against the principles of natural justice and for this sole reason it is liable to be quashed and set aside.

10. We allow the writ petition and quash and set aside the order passed by respondent No.3 dated 30.08.2022 in File No.MH/Office/Land-1A/987/2022.

11. Rule is made absolute accordingly.

12. Needless to state that if the respondent No.3 intends to initiate a proceeding for resumption of land, the petitioner should be noticed and extended an opportunity of being heard before passing any order for eviction or resumption. We have not expressed anything on the merits.

[Y. G. KHOBRADE, J.]

[MANGESH S. PATIL, J.]

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