

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

**WRIT PETITION NO. 5302 OF 2022
WITH
WRIT PETITION NO. 5492 OF 2022
WITH
WRIT PETITION NO. 5304 OF 2022**

Bhavin Jayantibhai Patel	... Petitioner
<i>Versus</i>	
The Additional Collector & Ors.	... Respondents

Mr. Atul Damle, Senior advocate i/b Mr. S.M. Sabrad a/w Mr. A.C. Sawant, Neha Parte, for the Petitioner.

Mr. A.I. Patel Addl. GP a/w Mr. A.P. Vanarase AGP for Respondent Nos. 1 to 3-State.

**CORAM: R. D. DHANUKA AND
M.M.SATHAYE JJ.**

DATE : 6th DECEMBER 2022

PC. :-

1. Rule. Learned Additional G.P. waives service for the respondents. Rule is returnable forthwith.

2. The petitioner has impugned an order passed by the appellate authority in these three petitions directing the petitioner to pay 75% of the nazrana amount on the basis of the market value on the date of the order.

3. It is the case of the petitioner that though the applications were made by the petitioner for seeking permission to transfer, the applications are not placed on record.

4. It is the case of the petitioner in these three petitions also that the petitioner is liable to pay nazrana on the basis of market value on the date of the application and not from the date of the order passed by the appellate authority.

5. We have perused the grounds raised by the petitioner in the appeal memo and order passed by the appellate authority. In our view there appears to be inconsistency in order passed by the appellate authority. The appellate authority has also not considered all the statements made by the petitioners.

6. At this stage, Mr. Damle, learned senior counsel for the petitioners, on instructions, states that his client would deposit 50% of the nazrana on the basis of market value on the date of the application without prejudice to the rights and contentions of the petitioners within eight weeks from today. Statement is accepted.

7. We accordingly pass the following order.

- (i) The impugned order dated 1st August 2019, passed by the Deputy Collector, Malegaon is quashed and set

aside.

(ii) Appeals filed by the petitioner is restored to the file for deciding the matter afresh in accordance with law without being influenced by the observations made and conclusions drawn in the impugned order dated 1st August 2019 for granting personal hearing to the petitioner and after considering all the contentions raised by the petitioners orally and in the memorandum of appeals within eight weeks from the date of depositing the amount by the petitioner.

(iii) It is made clear that if the petitioner failed to deposit 50% of the said amount, order passed by the appellate authority to stand restored and the appeals preferred by the petitioner to stand dismissed.

(iv) Order that would be passed by the appellate authority shall be communicated to the petitioner within one week from the date of passing such order.

(v) If there is any shortfall, adverse action should not be taken against the petitioner for a period of four weeks

from date of communication of the said order.

(vi) If there is any surplus made by the petitioner, amount shall be refunded to the petitioner within four weeks from the date of passing order.

(vii) Factum of deposit of amount shall be communicated to the appellate authority by the petitioner for fixing date of hearing. The appellate authority shall give 72 hours notice to the petitioner for hearing.

8. All the three Writ Petitions are disposed of in the aforesaid terms. Rule is made absolute. No order as to costs.

9. Parties to act on the authenticated copy of this order.

[M.M.SATHAYE,J.]

[R. D. DHANUKA, J.]