

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 3312 OF 2021

Indrakumar Balmukund Saraf

Vs.

The Municipal Council, Wardha and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.K. Bhoyar, Advocate for petitioner.
Mr. M.I. Dhatrak, Advocate for respondent No.1.

CORAM : AVINASH G. GHAROTE, J.

DATE : 04/08/2022.

Heard Mr. Bhoyar, learned counsel for the petitioner and Mr.Dhatrak, learned counsel for respondent No.1. None appears for respondent No.2 though served.

2. The petitioner challenges the order dated 04.01.2020, by which stay has been granted to order dated 03.12.12019 granting permission to cut a tree under the Maharashtra (Urban Areas) Preservation of Trees Act, 1975.

3. It is contended that the order of stay dated 04.01.2020, was granted on a complaint lodged by the respondent No.2 without affording an

opportunity of being heard to the petitioner. The order dated 03.12.2019 indicates that it is a final order passed under Section 8 of the Trees Act against which an appeal lies under Section 14 and once the order having been passed under Section 8, there is no power remaining in the Tree Officer to stay his own order. That being the position, the impugned order dated 04.01.2020 (Page 18) cannot be sustained, the same is hereby quashed and set aside.

4. The petitioner, in addition to the terms contained in the order dated 03.12.2019, shall be liable to plant five additional trees, i.e. total seven trees within a period of 30 days from the felling of a tree as per Section 8(5) of the Trees Act.

2. The petition is accordingly allowed in above terms. No order as to costs.

[AVINASH G. GHAROTE, J]